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THE DEBATE OVER AMERICAN OCCUPATION POLICY IN GERMANY IN 1944-1945[1]

THE American occupation of Germany in 1945 began under the auspices of the Joint Chiefs of Staff directive familiarly known as J.C.S. 1067. When this policy directive became available to the planning staff of the American Army at Versailles on May 21, 1945, it caused something like consternation and dismay. General Lucius D. Clay was shocked by it, shocked not so much by its exclusively punitive provisions as by its failure to consider the basic economic realities which confronted the Army of Occupation in a ruined country. Mr. Lewis W. Douglas, then General Clay's financial adviser, was skeptical of its practicability, and after an inspection journey through the United States Zone became convinced that it was unworkable. At General Clay's request, Mr. Douglas returned to Washington early in July to secure some modification of J.C.S. 1067.

1 With some minor alterations this article was delivered in the form of an address at the meeting of the American Historical Association in St. Louis on December 28, 1956.

Its central theme is the origin and evolution of the Joint Chiefs of Staff Directive 1067, not the Morgenthau plan and not the international negotiations either in the European Advisory Commission or at the Yalta Conference. The latter are considered here only in so far as they affected this basic American policy document. Since the article represents the substance of several chapters in a forthcoming volume no attempt at detailed documentation is made here. Because of the controversial nature of the subject, however, the author owes the reader a general statement concerning his sources. These embrace both published and unpublished materials, the latter being drawn largely from the files of the Department of the Army and the Department of State and from such Treasury Department materials as were submitted to interdepartmental conferences. The published materials include above all: Harley A. Notter, *Post-War Foreign Policy Preparation, 1939-1945* (Washington, 1949); Henry Stimson and M. Bundy, *On Active Service in Peace and War* (New York, 1948), which, however, breaks off sharply at the point when the debate over J.C.S. 1067 began; Robert

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When this failed he resigned. On October 24, 1945, General Clay himself flew to Washington to urge the necessity of modification, again without results. Notwithstanding the presence of some Treasury Department people, for whom it was not drastic enough, military government officers, high and low, publicly criticized and denounced J.C.S. 1067, and General George Patton had to be relieved of his command as the Military Governor of Bavaria because he openly revolted against it. It required all the skill and administrative genius of General Clarence Adcock, the Director of the United States Zone, to procure some measure of enforcement. A reasonable consensus of opinion prevails today that J.C.S. 1067 was not a statesmanlike document.

It is to the origin of this basic policy document that I wish to address myself. Before I do so, however, an important observation should be made. It is a commonplace now to say that World War II no longer transpired exclusively within

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Sherwood, *Roosevelt and Hopkins* (New York, 1948); Cordell Hull, *Memoirs* (New York, 1948), which, for accuracy and candor, leave something to be desired; Edward R. Stettinius, *Roosevelt and the Russians* (New York, 1949); Forrest C. Pogue, *The Supreme Command* (Washington, 1954); Henry Morgenthau, Jr., "Our Policy Toward Germany", *New York Post,* November 24-29, 1947; Winston Churchill, *Triumph and Tragedy* (Boston, 1953), often more interesting for what it conceals than for what it reveals. Of less importance are: James Byrnes, *Speaking Frankly* (New York, 1947); William D. Leahy, *I Was There* (New York, 1950); and *The Forrestal Diaries* (New York, 1952). The *Final Report of the Foreign Economic Administration on the Industrial Disarmament of Germany,* published by the Kilgore Committee (Washington, 1946), does not do justice to the intelligent and prescient rôle which Leo Crowley played in the Informal Policy Committee on Germany which drafted the final version of J.C.S. 1067. The most effective statement of the position of the American Delegation in the European Advisory Commission and of the Department of State is Philip Mosely's "The Occupation of Germany", *Foreign Affairs,* July 1950. In my article I desire not so much to challenge the validity of Mr. Mosely's position, with which I have a very real sympathy, as to do justice to the War Department's case which has never been stated. Although Herbert Feis covers the ground in his *Churchill, Roosevelt, Stalin* (Princeton, 1957), without so much as a single reference to J.C.S. 1067 (an omission which must be regarded as intentional), his book is nevertheless valuable for its balanced judgments.

The student of the evolution of American occupation policy in Germany will find the so-called Policy Book Papers of the Yalta documents, *The Conferences at Malta and Yalta, 1945* (Washington, 1955), even more relevant to the debate over J.C.S. 1067 than to the actual discussions at Yalta. Here, for the first time, the original interim version of J.C.S. 1067 is published (pp. 143-154). Here, too, the critical reader will find ample substantiation for the thesis that the Department of State sought to employ both the European Advisory Commission and the Yalta Conference to have J.C.S.

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the balance-of-power system as a war between sovereign states that could be resolved by the normal treaty-making devices that had become traditional in the nineteenth century. It was also an ideological war. On some of the more obvious war aims there was no disagreement among the three principal belligerents: Poland, Czechoslovakia and Austria were to be restored as independent states, and Alsace-Lorraine to be returned to France; the Allied armies were to occupy Germany, disarm her unilaterally, control German economy and administration, exact reparations, and to effect certain territorial adjustments in the East. The crucial question was and remained, how was National Socialism to be expunged as an active force from the political and economic life of post-war Germany?

The answer to this question obviously depended on an analysis as to just what the driving forces of National Socialism actually were. On such an analysis, however, pub-

1067 revoked; viz., the three memoranda addressed to the President in the course of November 1944 (pp. 166-173), Ambassador John Winant's letter to the President of January 28, 1945 (pp. 130-133), and especially the State Department's "Treatment of Germany" of January 12, 1945 (pp. 178-193), which is thoroughly incompatible with any previous version of J.C.S. 1067. What I call the War Department's "limited liability" concept of military government is based on an examination of the documents of the Civil Affairs Division of the War Department. The same thing applies to the War Department's insistence on the independence of the zone commander and on the short-term and general character of the directive for the American Military Governor of Germany. For the Department of State's draft directive of March 10, 1945, which caused a temporary withdrawal of J.C.S. 1067, for the memorandum of March 23, 1945, by means of which President Roosevelt hoped to settle the interdepartmental debate once and for all, and, finally, for the minutes of the Informal Policy Committee on Germany which drafted the final version of J.C.S. 1067, I was entirely dependent on the files of the Department of State. Indeed, without the courtesy and coöperation of the officials of the Department of State and the Department of the Army, this article could not have been written. It goes without saying that the views expressed throughout are mine and not those of the Departments which permitted me to examine their papers. In my determined effort to achieve a nondepartmental and nonpartisan perspective and because so many of the documents examined were perforce those of the Department of State, I submitted the relevant chapters of the study to John J. McCloy, who as Assistant Secretary of War at the time is probably better informed on the evolution of J.C.S. 1067 than any other living person, for comment and criticism. I have accepted most of Mr. McCloy's critical commentary—with the single exception of the argument advanced in the final paragraph of this article. This final paragraph, suggested by actual experience in the course of the American occupation, merely states in broader terms the same root problem first posed by Mr. Mosely from his special *locus standi*.

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lic opinion in the United States and Great Britain had not achieved complete unanimity—nor for that matter did it after the war. At the risk of oversimplification, it is suggested here that there were three different schools of thought in 1944 whose adherents professed to possess responsible views as to what National Socialism intrinsically was and what measures were most likely to be effective in its final eradiction. The first of these might aptly be called the outlaw theory of National Socialism whose advocates demanded a criminal trial or purge based on individual responsibility and the degree of complicity in the crimes of the Nazi régime. This outlaw theory found its most trenchant expression in the memorandum of January 22, 1945, addressed to the President by Secretary of War Henry Stimson, Attorney General Francis Biddle, and Secretary of State Edward Stettinius—a document, since it resulted in the London Charter, of decisive importance for the subsequent war crimes trials.[2]

The second group was the neo-Marxist school of thought whose advocates such as Franz Neumann, Gunther Reimann, Harold Laski and Max Lerner had written some of the most penetrating early studies of National Socialism before and during the war. To them National Socialism was a counter-revolutionary phenomenon, a product of the social tensions created by capitalist society and the special historical circumstances of Germany. They contended that Hitler was in some sense the *condottiere* of the magnates of the Ruhr heavy industry and German finance who coöperated in hoisting him into power on the gamble that he would exorcise the triple ghost of the depression, socialism and trade unionism by authoritarian means. It would be folly, the neo-Marxists contended, to superimpose democratic institutions upon a post-war German social system that was still essentially reactionary. The power of Nazism could be destroyed only if the social pattern that had produced it were broken up and reconstituted on the lines of economic democracy. What they demanded, therefore, was a social revolution.

Both of these groups drew certain distinctions between the Nazi and non-Nazi or anti-Nazi elements of German society, but the third group, the Vansittartists, the followers of Lord

[2] *Report of Robert H. Jackson to the International Conference on Military Trials* (Washington, 1949), pp. 3 *et seq.*

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Robert Vansittart, a cross between an elder statesman and *enfant terrible*, contended that such a distinction was a distinction without a difference and that National Socialism was merely the latest manifestation of a deep-seated German disease that had been more than a century in the process of incubation. Nothing could be gained, said Lord Vansittart in Parliament during the war, by merely sweeping out the Nazi party. Disagreeing with the Socialists, Lord Vansittart also had no use for a social revolution, since he believed the German masses too thoroughly indoctrinated with the nationalist ideology of their ruling classes. It is now almost forgotten that in the summer of 1942 a spirited debate between the British Socialists and the followers of Lord Vansittart burst into full vigor over the destruction of the heavy industry of the Ruhr, a debate that foreshadowed nearly all the features of the subsequent American controversy over the Morgenthau program. What Lord Vansittart wanted most was the destruction of German industrial hegemony in Europe, the trial of scores of thousands of war criminals, and a prolonged military occupation that was to effect a thorough *Umbildung* or re-education of the German people. It is quite apparent that Mr. Morgenthau's program was merely a variant of Lord Vansittart's indictment of the German nation. It is also one of those grotesque ironies of history that Vansittartism, which generally passed for a conservative doctrine in Great Britain, came to be associated with communism when it was advocated by Harry Dexter White in the United States.

These three wartime "images" of National Socialism are referred to here not merely to imply that in greater or lesser dosage they exercised a demonstrable influence on the formation of early American occupation policy, but to suggest that one's attitude toward these issues tended to correspond with one's position on the political spectrum and with one's social outlook, although this was manifestly not always the case.

Since the focal center of the evolution of American policy was and remained Washington, any discussion of the work of the European Advisory Commission and of the Yalta Conference must here be cut to the very bone. However, it must be emphasized that from first to last it was the considered policy of the Department of State that a concerted effort at

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coördinating the post-war occupation policies of Great Britain, the Soviet Union and the United States was an imperative necessity, unless, indeed, the frictions and vexations that accompanied the occupation of Italy were to be repeated in a more virulent form in the case of Germany. A first halting step in this direction was taken at the Moscow Conference of Foreign Ministers in October 1943, where the Soviet Union's acceptance of at least the principle of a joint Three Power responsibility for a common Allied occupation policy was secured. A few weeks later at Teheran the Three Powers agreed to set up in London the European Advisory Commission, composed of Sir William Strang, Ambassador John Winant and Ambassador Fedor Gusev, to work out their common arrangements for the post-war occupation of Germany.

Everyone knows that the European Advisory Commission failed to accomplish this task. It did, to be sure, draft the protocol on occupation zones, the agreement on the Allied Control Council Machinery for Military Government, and the German surrender terms, all of which were ratified either before or at Yalta. From its inception, however, the British, supported by Mr. Churchill and Mr. Eden, took the position that the Allied Control Council for Germany could not be made to function unless the three governments provided their military commanders with a solid foundation of agreed specific and detailed policy directives to be enforced uniformly throughout Germany. Only the widest measure of Allied intergovernmental agreements on substantive policy, it was said, could prevent disharmony among the three supreme army commanders in their separate zones of occupation. Secretary of State Hull, the entire State Department, Mr. Winant and his Delegation took substantially the same position. The British Foreign Office submitted to E.A.C. an entire handbook of specific and detailed policy directives on every phase of the occupation of Germany. The American Delegation submitted a parallel series of specific and detailed policy directives after they had been cleared in Washington. To this day Mr. Philip Mosely, then Mr. Winant's adviser, is convinced that it was only by means of such specific and detailed policy directives, accepted by the three governments before the end of the war, that a reasonable measure of Soviet coöperation could have been secured.

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When Mr. Mosely wrote his article on the failure of the European Advisory Commission to accomplish this essential mission, he laid the responsibility for this miscarriage at the door of the War Department.[3] This is, no doubt, quite correct, but the historian is under obligation to make an effort to understand the reasons for this determined War Department opposition. Among the differences that divided them, the War Department's deep-seated skepticism as to the possibility of arriving at a comprehensive occupation agreement with the Soviet Union was scarcely the most important. The core issue between the State and War Departments lay rather in two radically different conceptions of the nature, scope and duration of the contemplated military government for Germany for which the War Department felt itself to be in the first instance responsible. Nothing is more apparent than the anxious solicitude on the part of the War Department to keep the American Army of Occupation out of politics, while the Department of State and the American Delegation in E.A.C. seemed determined to saddle this army with a whole shoal of essentially political tasks which threatened to outrun the limited administrative capacities of an army of occupation. The War Department thought of military government as a short military clean-up operation, a brief punitive spasm which in eight weeks or thereabouts would accomplish its limited task and then be superseded by a civilian High Commission. The State Department, however, advocated a plan involving both short- and long-term political objectives expressed in binding intergovernmental agreements which left the military zone commander but little freedom. The War Department, it is clear, operated on a limited liability theory; that is to say, it contemplated a military government sharply confined to a certain minimum of basic but essential tasks directly related to the war and desired only very general and only short-term directives, but it contended that long-term political objectives should not be entrusted to an army of occupation.

It would be a dispiriting business to attempt an examination of the merits of the arguments on either side, since the weight of authority stood behind the War Department, for neither President Roosevelt, nor General Marshall, nor Mr.

[3] "The Occupation of Germany", *Foreign Affairs*, July 1950.

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Stimson and his Assistant Secretary McCloy desired these detailed directives or any limiting restraints on the full freedom of the zone commander. All of them preferred the interim directive of September 22, 1944, the original version of J.C.S. 1067, drafted in accordance with the limited liability theory, and all of them opposed such a long-range and detailed program for post-war Germany as Mr. Winant and the State Department were advocating. But there is a still more important reason why Mr. Winant was not given the broad powers he requested to negotiate a specific occupation policy agreement in the European Advisory Commission. Leading American officials, among them those of the War Department, were haunted by the fear that to grant Mr. Winant such broad powers implied a shift in the center of policy-making from Washington to London. If there was anything on which President Roosevelt and his closest advisers were determined, it was to prevent the initiative in policy-making from passing imperceptibly to the British and the Russians. The decision of November 1944 was never reversed.[4]

Curiously enough, as soon as Prime Minister Churchill learned from Lord Cherwell, who was then in Washington, of the American opposition to these detailed directives, he also lost all interest in their British counterpart. Writing to Mr. Eden on January 4, 1945, he stated: "It is a mistake to try to write out on little pieces of paper what the vast emotions of an outraged and quivering world will be either immediately after the struggle is over or when the inevitable cold fit follows the hot." [5] If one is bent on being critical, one will call this what it deserves—embracing a policy of drift. What is certain is that on both sides of the Atlantic the professional diplomats had been overruled. On both sides of the Atlantic a commitment, implicit in the decision of the Moscow Conference of 1943 to negotiate a tripartite occupation policy, had been abandoned, not, indeed, in favor of improvisation as in Italy, but in favor of unilateral instructions of the four governments to their supreme commanders, which was still worse. The subsequent spectacle of

[4] Letter of Assistant Secretary of War McCloy to H. Freeman Matthews, November 20, 1944. State Department files.

[5] Winston Churchill, *Triumph and Tragedy*, pp. 350-351.

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occupied Germany, partitioned into four hermetically sealed compartments from which the Military Governors regarded one another with eyes jaundiced by mutual suspicion was a logical consequence of this decision. The fact remains that a sustained effort to negotiate a common Allied occupation policy before the end of the war was not made, and when it was made at the Potsdam Conference it was too late.

Most assuredly, it was not made at the Yalta Conference. When the President departed for Yalta, J.C.S. 1067 was still the only existing official American policy document on the German occupation. While the Treasury and War Departments considered it acceptable, the Department of State was resolutely opposed to both the policies and procedures on which this document was based. Since neither the Treasury nor the Civil Affairs Division of the War Department was represented at Yalta, the Department of State sought to persuade the President to do at Yalta what he had refused to do in E.A.C.—negotiate a comprehensive long-term occupation policy agreement with Great Britain and the Soviet Union. For the second time he refused to do this, although the collapse of Germany could at best be only a few weeks distant. At Yalta the President still adhered to the policy, concerted with the War Department, that it was premature to negotiate a comprehensive occupation policy agreement. He was willing enough to discuss a few overriding issues, such as dismemberment, surrender terms, war crimes, the admission of the French to a seat on the Allied Control Council, but even on reparations he hoped to avoid making any irrevocable commitments. Indeed, except for the points just mentioned, Allied policy in post-war Germany played a very subordinate rôle at Yalta.

Nonetheless, Yalta did have its Achilles heel in the secret protocol on the reparations problem. What is surprising about the final Yalta reparations protocol, which was obviously based on Molotov's "Basic Principles" proposal of February 7, was less the mention of the twenty billion dollars reparations total as a basis of discussion which the Russians later misinterpreted, than the complete absence of any reference to what Americans considered a basic principle, namely the setting of an upper limit on reparations from current production which was necessary for the maintenance of a

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self-sustaining German economy. Hence, this protocol made far greater concessions to the Russians than the United States could actually support, if it did not wish to feed the population of Germany out of its own resources. Therefore the protocol was bound to give rise to serious misunderstanding as, indeed, it did. My belief is that the President at Yalta was more alert to the importance of the American position on this matter than either Secretary Stettinius or Harry Hopkins; for, when Mr. Stettinius declared the Maisky-Molotov reparations proposal to be reasonable, he was in effect repudiating his own memorandum which on the previous 22nd of November he had addressed to the President on this very subject. And is it not true that the President gave his consent to this reparations protocol during the final meeting at Yalta only after Harry Hopkins had passed on to him the written note to the effect that "The Russians have given in so much at this conference that I don't think we should let them down"—a note which Robert Sherwood reproduced in facsimile in his pages?

The Yalta communiqué, which boasted that an agreement had been reached on the joint Allied responsibility in postwar Germany, on "common policies" and on a "coordinated administration" through the Allied Control Council, cannot be taken seriously by the critical historian. Even for a purely military occupation such as the War Department contemplated, it was utterly inadequate, not to mention the vastly more important political issues on which it was silent. If, within the American government alone the Departments of State and the Treasury could, as they subsequently did, extract absolutely contradictory conclusions from this intentionally vague Yalta communiqué, then even more sharply divergent interpretations among the Three Powers were inevitable.

It was not in the international discussions, therefore, but in Washington where American occupation policy was drafted. Here in Washington a crisis had arisen late in the summer of 1944. General Eisenhower and the entire staff of SHAEF, expecting an early collapse of Nazi Germany, had just informed the War Department that a definite policy directive for occupied Germany was an immediate urgency. Mr. Winant was also demanding such a policy formulation for

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negotiation in E.A.C. Finally, the Secretary of the Treasury, Mr. Morgenthau, had returned from London on August 17, 1944, sharply critical of Army policy as expressed in the *Handbook for Military Government in Germany* which had been drafted by a combined British-American staff in the Theater of Operations. When in response to this critical situation the President, on August 26, appointed the Cabinet Committee, consisting of Mr. Hull, Mr. Stimson and Mr. Morgenthau, assisted by Mr. Hopkins, he gave it a double assignment—to draft both the short-term and long-range policies to be pursued in Germany. It is safe to assume that the reader is familiar with the controversy over the Morgenthau plan which presently erupted in this Cabinet Committee. He will know from Mr. Stimson's memoirs that Mr. Stimson was the first to declare his opposition to the Morgenthau program, though it must be said that Mr. Hull did not join him, notwithstanding the impression created in the Hull *Memoirs*, until he became irritated over Mr. Morgenthau's invasion of his special domain on September 20.[6] He will also know that the President, already dissatisfied with the trend of the discussion in the Cabinet Committee, took the wind out of its sails by making the problem which he had assigned to it the subject of an international agreement with Mr. Churchill in the Quebec Memorandum of September 15, 1944, which embodied certain characteristic features of the Morgenthau program. What is of decisive importance, however, is the fact that this Cabinet Committee, before the President dissolved it on September 26, approved the interim directive for General Eisenhower, henceforth known as J.C.S. 1067.

What I wish to emphasize here is that the formulation of American occupation policy was accomplished against the background of a triangular debate between the Departments of State, War and the Treasury, a debate which from first to last was dominated by the formidable and combative figure of Mr. Morgenthau. Because of his personal friendship with Mr. Roosevelt, he could claim an intimate knowledge of the President's views, and whenever the decision

[6] This statement is ventured here on the strength of the testimony of a deputy member of the Committee present at its meeting on September 20, 1944.

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threatened to go against him, he was free to appeal to this court of last resort. He did so on two occasions with complete success. Mr. Stimson, his most determined antagonist, soon withdrew from the debate; and Assistant Secretary McCloy, however much he might deplore it, felt himself bound to accept what he could not alter, the ascendancy of the Secretary of the Treasury. A considerable measure of cooperation between the War and Treasury Departments was possible, because Mr. Morgenthau promptly accepted three of the War Department's prime requirements: the independence of the zone commander, the short-term directive, and the limited liability theory of military government, although this meant the postponement of some of the most cherished features of his program. Since Mr. Hull resigned in November and Mr. Stettinius possessed no personal grasp of the German problem, the influence of the State Department was at its nadir in the autumn of 1944. No doubt, Mr. Morgenthau lost some ground after the Quebec Memorandum, but he was the only member of the original Cabinet Committee to survive in the Informal Policy Committee which drafted the final directive, and this directive bears the indelible imprint of his thought and influence.

It should be said at once that, apart from their difference on the scope and nature of military government and the independence of the zone commander, there was no serious disagreement between the State and War Departments on substantive occupation policy. They were in complete agreement on demilitarization, industrial disarmament, the trial of war criminals, denazification, restitution and reparations, but the State Department insisted that these punitive measures must be executed in the light of the long-range Allied objectives in Germany. It demanded a drastic denazification policy, but saw the futility of attempting to purge all seven million Nazi party members. Again, the State Department demanded the elimination of the German economic domination of Europe, the break-up of the excessive concentrations of economic power such as I. G. Farben, and favored heavy reparations not only in the form of the transfer of industrial equipment to liberated countries but in the form of reparations from current production which, unlike the Treasury, it considered necessary. But it opposed any sweeping de-

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industrialization because this alone could not provide an adequate basis for international security. Unless the United States were willing to feed Germans under the occupation, it was in the American national interest to maintain a minimum and self-sustaining economy to enable Germans to pay their own way. To avoid an unmanageably chaotic situation, the State Department contended, the American Army must maintain existing price, wage and market controls. Briefly, if the United States desired to enforce reparations and restitution, then it should also insist that the Allied Control Council must assume large responsibilities for the management of the German economy.

Neither the British nor the Civil Affairs Division of the War Department disagreed with these basic policy proposals. On the contrary, these identical policy proposals were faithfully reflected in the *Handbook for Military Government in Germany* which now became the special target of Secretary Morgenthau's criticism. He had just returned to Washington with his assistant Harry Dexter White with three overwhelming impressions: first, that both the State and War Departments were ignoring the President's own Teheran proposal for partitioning Germany and internationalizing the Ruhr and the Saar; second, that the Army in its *Handbook* was unwisely and mistakenly planning to rehabilitate the German economy in its misplaced effort to do an efficient job at occupation; third, that if there was to be continued coöperation with the Soviet Union and the West after the war, there must be a drastic reduction of German heavy industry such as the Vansittartists in Britain were demanding. After examining a copy of this *Handbook* together with Mr. Morgenthau's commentary, the President on August 26 addressed a caustic memorandum to Secretary Stimson, ordering this *Handbook* withdrawn and revised.

It was under the impression of this presidential memorandum with its essentially Vansittartist argument that the Cabinet Committee began its work on American occupation policy. There is no intention to discuss here the debate in this Committee. Yet it is important to point out that the Treasury plan suffered a significant modification in the course of the Committee's deliberations. The original Treasury memorandum of September 1, drafted by Dr. White, Mr.

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Luxford and Mr. Pehle, provided for an international zone embracing the entire Ruhr area in which only the armament and supporting industries were to be eliminated. In making this proposal Dr. White was demanding little more than Lord Vansittart had proposed in Britain. With a candor that does him credit Mr. Morgenthau in his *New York Post* articles of 1947 admitted that the White plan still left the bulk of the Ruhr industry intact and that the suggestion to wreck the coal mines and to dismantle the entire Ruhr was his personal contribution. It is first with this change that one can properly speak of a Morgenthau plan.

It is fairly obvious that the original White memorandum of September 1 and the program of Lord Vansittart, as set forth in the latter's speeches in the House of Lords, possessed certain features in common. Both held the entire German people responsible and both concentrated on heavy industry. It was quite in keeping with the spirit of Lord Vansittart that Dr. White proposed a comprehensive list of arrests aiming at the incarceration not only of war criminals and Nazi party leaders but of the entire civil service, business, and military leadership of National Socialist Germany. Unlike Lord Vansittart, however, Dr. White proposed the most drastic denazification program that had yet been advanced when he insisted on penalizing all Nazi party members. If it is true that, as the Treasury saw it, the root problem of dealing with Germany was identical with dealing with German heavy industry, because heavy industry was war industry, it is well to remember that Mr. Morgenthau, accepting as he did the War Department's limited liability theory, did not insist on including the destruction of that industry in the directive to the American Commander.

When on September 22, 1944, Harry Hopkins called the deputies of the members of the Cabinet Committee to meet in Mr. McCloy's office for an all-day session to draft the interim directive for General Eisenhower, the Treasury representatives declared that the original White memorandum had been approved by the President. This put an end to all further opposition on the part of their colleagues from the War and State Departments. Thus it happened that the original version of J.C.S. 1067 became largely a Treasury document. Although written in accordance with the limited liability

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theory of the War Department, its principal features were of Treasury origin and none of the basic State Department policy recommendations were incorporated in its clauses. By forbidding the American Army to maintain price, wage and market controls, it literally decreed, as a State Department official put it, economic chaos. In this way the Treasury's view that the extreme disruption of German economy was not in conflict with Allied interests became official American policy when on September 22 the Cabinet Committee, including Mr. Hull, approved this directive. As it stood, J.C.S. 1067 was an impracticable directive. The War Department accepted this document knowing that it was impracticable, but so long as Mr. Morgenthau had the ear of the President no other directive was obtainable and an immediate directive, indeed any directive, was a necessity required by the military situation, a circumstance which the State Department, thinking largely in political terms, was inclined to forget.

The Cabinet Committee had failed to agree on a long-range occupation policy for Germany, and so J.C.S. 1067 remained the only official American policy document. Refusing to accept the finality of this policy statement, the Department of State now opened an organized campaign that continued throughout the winter and reached its culmination on March 10, 1945, to have J.C.S. 1067 withdrawn or revised. In three incisive memoranda of November 1944, it sought to persuade the President that the policies of the Quebec Memorandum and J.C.S. 1067 were not in keeping with the American national interest. Though the President agreed, still nothing was done to revise J.C.S. 1067. When finally this document came up for revision to render it suitable for presentation in the European Advisory Commission, the War Department, knowing that an open challenge to the Treasury was bound to fail, instructed its representatives to prevent any material policy alterations. The revised version of J.C.S. 1067, as it emerged from the State-War-Navy Coordinating Committee on January 6, 1945, was still the same document as drafted on September 22, 1944. Thwarted again, the State Department repeated the effort at the Yalta Conference. The so-called Briefing Book papers that have now been published in the Yalta document collection be-

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come fully intelligible only when read as part of the State Department strategy to have J.C.S. 1067 withdrawn, directly or indirectly.

Again, the State Department failed—or did it really fail? When on February 28, 1945, the President directed Secretary Stettinius to carry forward the decisions of the Yalta Conference, it was the first time in many months that he had given so direct a commission to the State Department. The Department responded with unusual speed and decision, and, taking full advantage of this opportunity to recast American occupation policy, drew up its own draft directive of March 10 and sent it on to the White House. Two days later, the President returned it to the State Department with his official approval. For exactly eight days this State Department directive, superseding J.C.S. 1067, remained the official statement of American policy when it fell prey to the combined opposition of the War and Treasury Departments.

This March 10 directive had a double edge: it was directed against the War Department's cherished doctrine of the independence of the zone commander and against the Treasury policy of keeping hands off the German economy. It incorporated two basic principles that were axiomatic with the State Department: first, that American occupation policy must be worked out in close collaboration with our Allies in the European Advisory Commision, and, second, that the immediate measures applied should be an integral feature of a long-range program for defeated Germany. It contended that both the logic of inter-allied coöperation and the practical necessity of administering Germany required a minutely instructed and paramount Control Council, the only way to prevent separate zonal policies or to collect reparations. From first to last this March 10 directive was tantamount to a sharp condemnation of J.C.S. 1067.

It requires no special effort of the imagination to realize that when the Secretary of the Treasury read this March 10 directive, which threw into the discard the entire policy which he had hitherto advocated, he was seriously disturbed. On March 20, he invited Mr. McCloy and General Hilldring to his office for a discussion of the new State Department directive. In the course of this conference Mr. Morgenthau indicated that this March 10 directive was so contrary to the

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President's views that he could not understand the President's approval. Far from implementing the Yalta decisions, it revived those policies which the State Department had advocated before Yalta and had not been agreed upon at Yalta. He did not desire to see J.C.S. 1067 abandoned; for this directive, which the State Department regarded as a Treasury document, was to him an acceptable compromise. In the course of this discussion he learned that Secretary Stimson was also strongly opposed to the new directive though for entirely different reasons. Confronted with this combined Treasury and War Department opposition, the President on March 20 withdrew the March 10 directive.

To settle once and for all the policy problems so bitterly disputed among the three Departments, the President on March 22 called their representatives to a conference in the White House. At the conclusion of this meeting a joint memorandum was drawn up by all three Departments and on March 23 the President approved this. It is fair to say that the controlling concepts of the March 23 memorandum were already those which dominated the final version of J.C.S. 1067. If it did not proclaim a single coherent body of policy, at least it imposed a temporary and uneasy peace of compromise on the three Departments, largely, it must be said, at the expense of the State Department, though the latter did not come off empty-handed. The very brevity of this three-page memorandum had the effect not only of scuttling the State Department's directive but of restoring certain features of the previous version of J.C.S. 1067.

Equipped with these binding instructions, the Informal Policy Committee on Germany completed the final draft of J.C.S. 1067 on April 26, 1945. Except for Mr. William Clayton, the Assistant Secretary of State, who served as chairman, and Mr. Leo Crowley of the Foreign Economic Administration, all the veteran officials who had participated in the debate since September were represented on this committee. It is perhaps of more than symbolic significance that I.P.C.O.G. held its plenary sessions in the Treasury office of Mr. Morgenthau. As the guardian of the President's views and the only Cabinet member on the committee, it is intelligible that he should frequently dominate the discussion, as the minutes of this body reveal.

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The final draft of J.C.S. 1067 can scarcely be called the product of a consensus, unless you call an enforced compromise a consensus. What casts a shadow over this document is a simple fact that cannot be read out of the text of its tortured clauses. It is this, that when the President revoked the State Department March 10 directive he also revoked along with it the axiom that the immediate measures of military government must constitute an integral part of an American long-range occupation policy. Although the President had promised such a long-range policy when he dissolved the Cabinet Committee on September 26, 1944, he had ceased to believe in the feasibility or wisdom of such a policy. His instructions to I.P.C.O.G. were to draft a short-term policy directive for the initial post-defeat period. Yet, in human affairs nothing can be so permanent as the temporary.

What is so striking about J.C.S. 1067 is not that it was a punitive document—it could not have been otherwise—but that it was an exclusively punitive document. It is true, of course, that Mr. McCloy and Mr. Crowley did succeed in introducing a number of mitigating clauses, but these clauses did not alter, as Mr. Stimson ruefully confessed two years later, its painfully negative character. It was not tempered by a forthright and positive constructive policy. Before condemning it out of hand on this count, however, it is well, following the first principle of historical criticism, to examine it in the contemporary context.

Why did the War Department approve this final version of J.C.S. 1067? Mr. Stimson and Mr. McCloy, certainly among the ablest and most intelligent men in the entire Roosevelt Administration, had taken the initiative in their opposition to the Morgenthau program in the previous autumn. They had even criticized the State Department for being too vindictive in its early policy papers. They were both out of sympathy with the early versions of J.C.S. 1067, and they declared their neutrality in the Treasury-State Department debate only because they felt themselves bound to take the White House decision as the Commander-in-Chief's decision and loyally proceed to plan on it. In view of this, one might have expected them to support the moderate policy of the State Department's draft directive of March 10

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or at least a modification of it. Instead, they combined with the Treasury in causing its withdrawal and indicated that to them even the January 6 version of J.C.S. 1067 was preferable. Why did they do this? The answer is simple and compelling. They were convinced that the State Department's draft directive which set up the Control Council as the only really effective authority in Germany, thus practically blotting out the independence of the zone commander, was unworkable. More important still, in their judgment, it was too late in the middle of March 1945 to shift the gears of policy. The War Department's occupation plans had already been laid, preliminary instructions had already been sent out, and the countless subsidiary and specific directives had already been drafted, printed and distributed. To have suddenly revoked those directives, as the State Department intended to do, would have produced confusion worse confounded. As it was, there was confusion enough, chiefly because of the delay. Finally, the War Department was genuinely alarmed at the prospect of still further delay because of renewed and endless controversy, for as matters then stood it was apparent that the Treasury would not accept this March 10 directive. Mr. McCloy, therefore, bent his best efforts to render J.C.S. 1067 as practicable for the Commander as possible, knowing that it was an imperfect directive. It was not his fault that the mechanism for effecting policy changes, which he built into the directive, later failed to function. On the other hand, the War Department was unwise not to abandon its limited liability theory sooner than it did, and it was mistaken in cherishing the peculiar illusion that a politically neutral and purely military occupation was feasible. Once the German military machine was completely demolished, all the paramount occupation problems were political. Anyone who later observed the Allied Control Council in action might be tempted to say that Ambassador Winant was right in contending that only a comprehensive set of detailed inter-governmental agreements would enable the Control Council to function properly. The question of course remains whether the common administration of Germany with the Soviet Union as a member of the Control Council was ever feasible. This much, however, is certain, that the War Department's doctrine of the independence of

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the zone commander was valid only as long as the limited liability theory was adhered to, but once all Departments had agreed to the setting up of central German administrative agencies, to a balanced economy and to a pooling of exports, it was no longer feasible—and therefore it was an error on the part of the War Department to insist upon it. Still, in March 1945, it was too late to negotiate such inter-governmental agreements, for by this time the several supreme commanders, instructed separately by their governments, were already setting the course.

After what has been said there is no need to labor the point that the strongest single influence in the drafting of J.C.S. 1067 was that of the Treasury and Mr. Morgenthau. He had sacrificed much of his original program. His plans for internationalizing the Ruhr and for the destruction of German heavy industry did not survive. Yet, he succeeded in including in the directive the order to the American Commander to do nothing to maintain the German economy—that was to remain a German responsibility—although he was compelled to yield on retaining existing price and wage controls to prevent a runaway inflation. He succeeded also in retaining the clause prohibiting the production of iron and steel, chemicals and machine tools. Again, the arrest categories of an earlier version, actually the work of the Treasury, were incorporated in the final version. But it was the State Department and not the Treasury that wrote the final denazification policy.

Since the publication of the Yalta papers it has become the fashion to say that the soundest thinking was done in the State Department. In fact, this Department did see many of the problems posed by the occupation in something like their true perspective. But its tactics were incredibly clumsy and ill-considered. It was an irreparable and tragic tactical error on the part of the State Department to send its draft directive of March 10 to the White House without first consulting the War Department on the imperative needs of the Army of Occupation. By doing so, it alienated its natural ally, the War Department, at a moment when it lacked leadership alone to oppose the Treasury with any reasonable hope of success. In dealing with the other two Departments, which knew precisely what they wanted, the State Department

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was placed at a disadvantage by its perfectly truthful admission that there was no sovereign remedy for the solution of the German problem. The total German defeat, the trial of the war criminals, the rigorous removal of active Nazis from key positions, the prohibition of cartels, and the dispersion of ownership in the giant corporations of industry and finance, all these and similar policies, if carried out with a sense of measure and with one eye cocked on their long-range effect, would prove to be a salutary experience. But when the State Department insisted, in November 1944, that all this must be done in detailed directives worked out in close coöperation with our Allies, it was a voice speaking in the wilderness. I am not at all sure that in all this the State Department was so wrong, nor am I certain that the War Department which tended to think in terms of the American Zone alone was right.

Let me conclude by referring to certain comments of Mr. McCloy, who during his statesmanlike administration as High Commissioner did more than any other American to execute that same long-range policy advocated by the State Department which he and others did so much to defeat in 1945. Mr. McCloy replies to my mild criticism of the conduct of the War Department in 1945 by saying that the absence of a long-range policy in 1945 was no serious impediment to the American Commander in Germany, that General Clay did precisely what the War Department expected him to do when he came to grips with concrete occupation problems, that is to say, whittle away the unworkable clauses of J.C.S. 1067 empirically and piecemeal. As a description of what actually happened this statement is unexceptionable. General Clay did develop something like a recovery program by expanding the meaning of the "prevention of disease and unrest" formula in J.C.S. 1067. But it is also true that Germany did not even begin to pay her own way until after the currency reform in 1948. It is fair to ask, therefore, if the absence of a longe-range policy such as the State Department had already drafted in 1945 was not actually responsible for the three years of stalemate that followed.

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THE STUDY OF CORRUPTION [1]

THE investigation of corruption (in the analytical sense) does not seem to present a subject of very intense interest to social scientists these days. Past research in this area has for the most part taken its stimulus from a basic commitment to *reform*, rather than from the intrinsic charm of the subject, and most of it has tended to be done during times when a general concern with reform was fairly high. We are not living in such a period today. Actually such periods have been very productive, yielding rich materials in the form of journalism, histories, memoirs of reformers, and treatises on "good government" which, in their very devotion to the overthrow of the "machine" system, could hardly help producing, in the course of things, a number of insights into the nature of that system. Such bursts of energy have, in their turn, even begotten certain idiosyncratic by-products, such as an occasional "apology" for the system, or occasional sympathetic sketches of the more legendary "bosses", showing the genial side of their activities—all of which has not only multiplied the raw data, but has also given them depth.[2]

[1] Paper read at the 33rd Annual Institute of the Society for Social Research of the University of Chicago, June 1, 1956.

[2] The work which combines all the best in the tradition is, of course, that of Lincoln Steffens: *The Shame of the Cities* (New York, 1904), and especially the *Autobiography* (New York, 1931). Early inquiries (more or less theoretical) from a reform viewpoint are Robert C. Brooks, *Corruption in American Politics and Life* (New York, 1910); John J. Hamilton, *Government by Commission: The Dethronement of the City Boss* (New York and London, 1911); Frank J. Goodnow, *City Government in the United States* (New York, 1904); and Frederic C. Howe, *The City: The Hope of Democracy* (New York, 1906). A more recent summation of early reform efforts is Clifford W. Patton, *The Battle for Municipal Reform* (Washington, 1940). That "muckraking" itself is not quite dead, even today, is evident in Estes Kefauver's *Crime in America* (Garden City, 1951). The machine, on the other hand, had its literary apologists as early as the 1890s: Daniel Greenleaf Thompson, *Politics in a Democracy* (New York, 1893); Alfred Henry Lewis, *Richard Croker* (New York, 1901) and *The Boss* (New York, 1903). Material on Tammany Hall is very rich. It includes Denis Tilden Lynch, *"Boss" Tweed* (New York and London, 1927) and *The Wild Seventies* (New York and

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It may be regrettable—in the interest of sustained energy—that the moral tensions which formerly served to foster such investigation are at present so noticeably relaxed. But, on the other hand, there may also be reason to think that this very relaxed emotional climate itself offers a peculiarly promising setting in which future work might take a new and fruitful turn. In this setting, we are now able to recognize that further "reform" activity, for its own sake, will probably yield us very little that we do not already have in the way of insights; it is difficult, for instance, to mistake the indiscriminate Kefauver diggings for much that resembles "knowledge". Moreover, in this setting, we have perceived that, amid the conflicting claims of a disorderly democratic political society, the corrupt machine system has historically performed certain stabilizing functions: it was David Riesman who referred to the local politician as "soaked in gravy which we can well afford." And finally, it is in this same setting of detachment that we are free to appreciate the attributes of that remarkable technician—and gentleman—DeSapio of Tammany Hall. These, at any rate, are a few of the straws in the wind.[3]

What we ought to see in the future—assuming a picking-up of interest—will be various studies in which political machines and their auxiliary activities are examined in a structural and functional way: that is, in terms of such questions as, what have they done for society—how do they work—what gaps have they filled in our political life—what has

London, 1941); M. R. Werner, *Tammany Hall* (New York, 1928); Roy V. Peel, *The Political Clubs of New York City* (New York and London, 1935); William L. Riordon, *Plunkitt of Tammany Hall* (New York, 1948); and especially Lothrop Stoddard's fascinating *Master of Manhattan: The Life of Richard Croker* (New York and Toronto, 1931). A number of active reformers have left us their memoirs. Outstanding among them are Brand Whitlock, *Forty Years of It* (New York, 1914); Fremont Older, *My Own Story* (San Francisco, 1919); Tom L. Johnson, *My Story* (New York, 1911); and Carter Harrison, *Stormy Years* (Indianapolis and New York, 1935). An attempt to deal "scientifically" with city politics is Harold F. Gosnell, *Machine Politics: Chicago Model* (Chicago, 1937); also in this vein is Sonya Forthal, *Cogwheels of Democracy: A Study of the Precinct Captain* (New York, 1946). More humane, and consequently more illuminating, is John T. Salter, *Boss Rule: Portraits in City Politics* (New York and London, 1935).

[3] Another such "straw", surely, is the immense popularity of Edwin O'Connor's novel, *The Last Hurrah* (Boston, 1956).

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been needed to maintain them—what are the limits within which they have had to operate—what sort of future may be expected for them?

The closest approach to a theoretical model for dealing with such questions has been that offered by Robert K. Merton in his *Social Theory and Social Structure*,[4] and no new investigation could very well afford not to take this model as its starting point. So far as I know, very little, if anything, has been done with it. I am not even sure that it has been subjected to critical examination.

An important thing to note with regard to the Merton scheme is that it seems to have been postulated for what might be called a "classical" period in the history of American machine politics. The most perceptive field work ever done in this area is still probably that of Lincoln Steffens—and since it is from Steffens that Mr. Merton has taken his major cues, it is inevitable that the balance and arrangement of his categories should be most appropriate to a state of things which existed about fifty years ago: a period roughly centering on the year 1905.

This is not meant to intimate that the model does not apply today. It is valid and accurate in all its major details. It is so set up that any alterations in it would have to be more in the nature of refinements than of basic changes. But the subject matter itself has changed in a great many ways since Steffens' time, and I emphasize this in order to make my key point. In the absence of outside stimuli—such as a general public interest in "reform" (or, for that matter, a primary *need* for reform)—pressure for new work and new insights will have to come from somewhere within the social sciences, and, specifically, I would say that it will have to come from the field of American history. Its raw data will be found in the form of substantial materials which must now be called "historical": material covering the period in which our cities underwent their most phenomenal phases of growth—material which dates back at least to the end of the Civil War. Any theoretical model for the explanation of social phenomena has a tendency, in spite of all precautions, to be static. But if there is anything about our social scene that is

[4] Glencoe, Ill., 1949. See pp. 71-81.

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insistently dynamic, it is the tempo of our political life—and to get the sense of dynamism in political structures (that is, *change,* and the things that produce it), one needs the sense of time. We know a great deal about the functions of such structures at given points in time. But of equal, if not greater, importance to political sociology today is the course of transformation which these structures—these "machines"—have undergone over the past two generations. This is now what makes "history" such a vital dimension. An understanding of such change, and of the reasons for it, is bound to "feed back" into one's understanding and judgment of the very functions themselves.

What are—or have been—these "functions"? To repeat, they have been no better itemized than by Mr. Merton, and probably the best way to set up points of reference for the present discussion would be to recapitulate very briefly the principal elements of his model.

A "structural context" is first established: a general setting or environment in which, for one reason or another, the "need" for such an establishment as the political machine has arisen. The principal element in this environment is the diffusion and fragmentation of power—and therefore of responsibility—which tends to be inherent in a transitory, non-authoritarian, elected, democratic officialdom. It is easy to see how this could emerge as a critical limitation in the mushrooming cities of the United States during the seventies, eighties and nineties, amid an urban life proliferating in complexity and tangled with a bewildering maze of conflicting needs and claims. Here an alternative, informal focus of responsibility was located in the "boss", a leader of unofficial executive status who had a freedom and flexibility made possible by his ability to work, as it were, in the back room. Another element in this context—if I myself may add one—would be the fact that any organization of a political nature which did have the power and numbers to furnish these needs and umpire these claims was bound to have no more than a semiprofessional status. Such an organization, constantly requiring money to keep itself going, would have to derive a certain amount of it from sources no more than quasi-official in nature. All this would follow in the absence

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of centralized, professionalized, bureaucratic traditions of administration.[5]

In this setting, Mr. Merton enumerates four of the major "latent functions" which have been performed by the machine system, in relation to the various subgroups making up its constituency. The first of these functions involves various kinds of welfare services for the poor and powerless; such services would include the widest range of things—food, jobs, intercession with the law in times of difficulty, and so forth. Their price, quite logically, would be votes. Another set of functions appears in response to some of the manifold and perennial problems of business men—such problems as the need of smaller business men for protection against each other, the occasional need of larger business men to have cumbersome and expensive projects expedited, and the constant need of all classes of business men for unofficial protection against a snarl of contradictory and overlapping laws, codes and regulations. The prices here, graded as they would be according to the services, add up to "routine graft"—the "oil" that keeps the machine in running order. A third type of function is one which requires a certain conceptual subtlety to recognize. For certain critical ethnic groups, and for groups situated in lower social brackets generally, the large urban political machine has traditionally afforded very important channels of social mobility—avenues to personal advancement—which would doubtless otherwise be closed.[6] For example, the availability of careers in politics served as a significant safety valve for the surplus social energies of the New York Irish from the 1870s on. The price which these groups were asked to pay was, from their viewpoint, hardly excessive: unstinting party loyalty—unquestioning devotion to the organization. A final category of functions is one in which services analogous to those per-

[5] Max Weber, acutely sensitized to bureaucracy and its implications, was very impressed by the responsibility of the American "boss", recognizing that in him and in his organization lay the natural functional substitute for bureaucracy in a growing democratic political culture. See "Politics as a Vocation", in *From Max Weber: Essays in Sociology*, translated and edited by H. H. Gerth and C. Wright Mills (New York, 1946), pp. 108-111.

[6] The significance of this function may be confused unless an important analytical distinction is made. It should be thought of in terms, not of the "number" of careers it provides for these groups at large, but rather of a critical ratio of outlets for the potential *leadership* among such groups.

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formed for "legitimate" business were also made available to the underworld—to "illegitimate" business. Here the machine could actually operate as a kind of stabilizing mechanism: by maintaining communication—and actual connections—with the underworld, it could act as an umpire for activities carried on outside the law; it maintained, in effect, a measure of control; it could set standards and define limits. The price, of course, was the familiar "protection money"—the kickback.

Such, then, is the pattern. To what extent does it hold today? It is a pattern whose formal outlines are still in some way to be recognized in all our major cities. However, the specific activities and operations represented by these formal categories have been so immeasurably altered and transformed as to change the very *symmetry* of the pattern, and to raise certain very crucial questions. Has the old system for practical purposes (as some writers have begun to assert) really "broken down"? Or does it continue to operate within a more limited area? What has been the effect of the reform tradition? Has the boss "gone straight"? What kinds of loyalties can the machine command today? What kinds of things can it still do—and are there things that it can no longer do?

Certain kinds of historical problems immediately suggest themselves—problems having to do with the *persistence* of the "corrupt machine". For instance: under what conditions has it been possible for a reform movement to be successful? We find that it has never quite been a matter of civic affairs reaching a given point of "rottenness", with the honest citizens at that point making common cause to strike down the machine. What seems to have been required, as a matter of historical experience, is the combining of other factors, fairly complex and not always easy to identify. Such factors include points at which the machine has ceased to serve its clients responsibly—points at which services could no longer be considered worth the prices asked. The arrival of hard times could quickly precipitate such a situation. An even more sensitive point could be the one at which (for whatever reason) the machine's internal solidarity had become weakened—because of power struggles, some temporary loss of internal responsibility, perhaps a weaken-

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ing of loyalties resulting from inequitable distribution of spoils. Variations on these themes will be found, if one is looking for them, recurring again and again in the literature. They are admirably spelled out in the downfall of the Tweed machine. Here we see the Boss having lost all bearings, all sense of proportion, launching a series of insane depredations, and alienating his followers by refusing to distribute the loot honorably. The Ring had become virtually a *personal* operation, with Tweed's raids upon the city treasury far exceeding what could reasonably be afforded. Here, moreover, we see the critical increment of reform energy coming from *within:* Samuel Tilden's success was in large measure due to strategic assistance from the Tammany organization, and to the invaluable inside knowledge which was the product of having himself worked, for years, with Tammany Hall.

A situation of this sort may undoubtedly be matched by numerous others—and, in fact, by still others turned, as it were, inside out. For, conversely, it may be assumed that a reform government which offers nothing as a substitute for the functions performed by the machine will find itself very shortly in a state of paralysis. The mayoralty of Seth Low in New York in the early 1900s furnishes such a case; another is found in the efforts of Joseph Folk to "reform" St. Louis in 1902; and numerous others may be located all through the reform annals of the Progressive Era.

Such might be called the "functional" approach on the simplest and most straightforward plane. But it leads into parallel problems of even greater interest and greater subtlety. Take this question: what is the function of the reform movement—not for destroying the machine but for reinvigorating it, for renewing its vitality, for *helping* it to persist? At this point the "machine" metaphor itself becomes misleading. It has in no case, apparently, been a thing that could be smashed in the way that an engine can be rendered useless by the destruction of a few key parts. Rather, its very complexity, the very functional autonomy of so many of its parts, makes it more like an *organism.* For instance, solidarity at the ward level seems to persist almost by habit: Plunkitt of Tammany Hall—then a ward leader—survived the destruction of Tweed and flourished, and his

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experience must have been reënacted by many another in comparable circumstances. How might this be explained?

Taking this situation as the focal point for a whole range of problems, one might attempt to picture the scene at local headquarters the day after an election in which smashing victories had been won by the reform ticket. One may picture the post-mortem (a proceeding built into American politics): it would most surely include a highly critical reappraisal of the power situation in the ward—and those present would be the first to understand why the organization had lost. A further result would compare very closely with Durkheim's analysis of what happens at funerals: a ritual reaffirmation of group solidarity. Still another consequence would be that the demands normally made on the machine would (in view of lean times to come) tend to drop off. Therefore—assuming that the lean period did not last too long—it might be predicted that the aftermath of defeat would coincide with precisely that phase of the machine's greatest moral solidarity.[7] Some highly interesting conclusions might be expected to flow from this. Granting any other functions remaining for the machine to perform—and by definition they always exist—might not these be precisely the conditions in which they would be discovered? A crude example is afforded by the breakup of the Whisky Ring in Grant's time; the "army of termites" (as Matthew Josephson put it) promptly marched into the Post Office Department. Or, let the setting be a little less extreme and more refined: such conditions as those just described might simply serve as a test for activities whose *style* must be altered from time to time in order to remain acceptable. Boss Kelly of Chicago, according to legend, was always pleased to have Paul Douglas somewhere on the scene; his use of Douglas was as a standing threat to "any of the boys who got too hungry." A final point to be made along these lines is that the very informal nature of the machine will set limits at *any* time upon its stability—which would mean that its internal leadership must remain aggressive and dynamic to keep from being unhorsed by disaffected henchmen. The most natural alliance

[7] I have been told that some of the Wallace groups reached the high point of their solidarity about a month *after* the 1948 election. After this high point—with nothing to look forward to—the groups tended to disintegrate.

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that an insurgent group could reach for would be an alliance with reformers. Other factions standing by could then, like Lord Stanley on Bosworth field, take their choice. The machine, in other words, has been anything but a torpid institution: a perennial state of internal "yeastiness" has made it a dynamic one.

Another set of problems, in which historical analysis and the use of historical materials are indispensable, would have to do with *long-term* changes in the entire system of machine rule. Here the reform tradition must be given its due in another way, for the very process of evolution in civic politics has been accompanied by reform groups taking up the slack and calling the turn as change occurs. The city manager and city commission plans never quite produced—in themselves—the effects hoped for by their early exponents, but they may still be considered as symptoms of a long-term process whose tendency has been toward ever-continued extension, rationalization and stabilization of official administrative agencies. Probably the most specific and most important single expression of this has been the extension of civil service into municipal government. Today, for example, a considerable sector of Tammany's former patronage preserves in New York City is blanketed by a very efficient system of civil service.

The notion of evolutionary change could be carried directly into the specific functions enumerated in Mr. Merton's conceptual scheme. Upon the welfare functions, for instance, time has unquestionably left its mark. Here, a considerable number of the services once performed for unassimilated immigrant groups and for the economically underprivileged are today no longer needed. The need has been eroded away by the assimilation process itself, by the development of scientific welfare on municipal and state-federal levels, and, most especially, by a relatively long period of full-employment capitalism. The result has been mobility, a constant turnover of population in urban areas—all of which has been deeply subversive of neighborhood solidarity.[8] Or, take those functions performed for legiti-

[8] Some present-day consequences of this mobility are discussed in G. Edward Janosik, "Suburban Balance of Power", *American Quarterly*, VII, 123-141 (Summer 1955); and Harvey Wheeler, "Yesterday's Robin Hood", *American Quarterly*, VII, 332-344 (Winter 1955).

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mate business. If it is kept in mind that the protection, the controls, and the umpiring have been "*un*official", as opposed to "official", there can be little doubt as to which direction the curve has gone over time, since one of the most dramatic features of our political history since 1933 has been the extension of official public controls into every aspect of business and over all kinds of businesses. Such change is, of course, anything but absolute; the old pattern, in some form, is still there. I am only indicating what the time dimension has been doing to it.

The most fascinating changes of all, and by far the most complex and difficult to trace down, are those connected with Mr. Merton's other two functions—the functions involving social mobility and relationships with the underworld. One of the most remarkable of recent discoveries in the social sciences has been the manner in which these two areas are related—the manner in which (whether the political machine is directly involved or not) they grade into one another. Somewhere along the way a conceptual block has been removed, and we are now able to see that not only do the values of mobility, status and respectability operate in the underworld in a way precisely analogous to their workings in the "upperworld", but also, that the extent to which the two worlds *overlap* in shared values is considerable. All of this furnishes us a final set of problems directly related to those already touched upon.

In drawing a pattern of corruption (loosely used here as a generic term for covering a wide variety of things) might it not be possible to trace not only the obvious shifts and transformations but also a pattern of *energy*? What happens when obstacles are placed in a particular area of corruption? Is the result an alternative pattern? Perhaps—but what about the stabilization of *existing* patterns? The same question could be put in another way—in terms of the social-mobility function (either in politics or the underworld) for socially deprived ethnic groups. Is there a possible correlation between the rise to social acceptability and the stabilization of particular forms of corruption in which members of these groups have specialized? Might not the very high value which American society at large sets upon mobility serve over time as a built-in check—as a stimulus for (say)

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"cleaning up" the rackets?[9] This surely goes back at least to the days of Plunkitt—he was the man who made the virtuous distinction between "honest" and "dishonest" graft.[10]

The Italian community of a generation ago may provide the clue to the way the mechanism works. Assume at the outset a series of status gradations all the way up through narcotics, prostitution, and ultimately gambling—and in which the gamblers would be, as it were, the "gentlemen". Costello would handle the gambling, Luciano the girls and dope. Now what has, in fact, happened between then and today? As the entire Italian community has moved up, the higher-status brackets of the underworld have apparently come under tremendous crowding and pressure (gambling at large having become almost respectable), whereas the lower grades have been vacated to unorganized riffraff. No one of comparable prestige has arisen to fill the shoes of Lucky Luciano, and probably no one will. Moving up, then, into politics, we see the New York civic scene today liberally dotted with substantial citizens of Italian origin.[11] Indeed,

[9] A real landmark of analysis in this area, one whose importance cannot be too much emphasized, is Daniel Bell's brilliant essay, "Crime as an American Way of Life", *Antioch Review*, XIII, 131-154 (Summer 1953).

[10] There have, of course, been exceptions, but it appears that city bosses (who have by definition "risen to the top") have in general tended to be men who were fairly honest personally, and who remained aloof from police corruption (the "shaking down" of disorderly houses and other illegal enterprises), even while tolerating it among their vassals. Such activity was considered dirty and disreputable, and beneath their personal dignity. "Honest graft", on the other hand (business dealings to which the city was a party, and in which the politician, as business man, had advantages of prior knowledge), was on a considerably higher moral plane. See Riordon, *Plunkitt*, pp. 3-8. For a comparative survey in standards of honesty—standards surprisingly high—see Harold Zink, *City Bosses in the United States* (Durham, 1930).

[11] Throughout William Foote Whyte's *Street Corner Society* (enlarged ed., Chicago, 1955) are examples of how the universally coercive values of respectability and the drive for status and success operated among the Italian community both in the rackets and in politics, as well as elsewhere. Especially illuminating is Mr. Whyte's story of how a leading racketeer of "Cornerville" forbade his son to play with the riffraff of the neighborhood, and how gratified he himself was to associate with a Harvard professor—until he discovered the "professor" hanging out with the street-corner and poolroom crowd. Very perceptive observations on the social, political and geographical mobility of the Italian community are also to be found in chapter 4 ("The Frontier Reappears") of Samuel Lubell's *The Future of American Politics* (New York, 1952), pp. 62-80.

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it appears that the same mechanism just described (simple mobility—with or without an "ethnic" dimension) has been at work within Tammany Hall itself. One of Mr. DeSapio's current problems seems to be the presence of significant numbers of liberal, civic-conscious young people working in the local clubs simply for the fun of it. The "Boss" is not finding it easy to give away what patronage he has, since the very people to be rewarded are turning out to be better placed elsewhere, in business and in the professions.[12]

Let me now return to my original point. I would like to repeat my belief that those studies which can most appropriately embrace the kinds of questions I have raised will come more and more to have a historical framework. An excellent type of investigation, simple in format but with the flexibility needed for moving into any number of related areas, would be the life-study of a machine. Here, with the historical dimension, one could get the very crucial sense of a *cycle*. For cycles are long, and they embrace much change. One might further predict that the historian to whom this kind of project will be of interest will tend more and more to come into it equipped with analytical tools which he has appropriated from elsewhere but domesticated for his own special requirements. They may not ease his task, but they will make him sensitive to a whole range of vital connections which, admittedly, past historical studies (and many "scientific" ones as well) have left untouched.[13]

I cannot resist a final question. Is the machine headed for extinction? Is it getting "cleaner and cleaner"? Conceivably not—not necessarily. New predictions could very well center on a new mobility-cycle for ethnic groups still not yet "arrived"; and this might involve a period of renewed machine activity in which the tone of politics could once more drop quite noticeably. For instance, what might happen when municipal patronage and civil service jobs are no longer attractive to (say) bright young Jewish and Italian

12 See Robert L. Heilbroner, "Carmine G. DeSapio: The Smile on the Face of the Tiger", *Harper's Magazine,* July 1954, pp. 23-33.

13 Since the above was written, an excellent and illuminating monograph, conceived along these very lines, has come to my attention. It is A. Theodore Brown's "The Politics of Reform: Kansas City's Municipal Government 1925-1950" (Ph.D. Thesis, University of Chicago, 1956).

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lawyers—no longer within their dignity? One clear sign of rising mobility among Negro and Puerto Rican groups would be the appearance of substantial numbers of them in minor political leadership rôles. Along with it would come, of course, a great deal of tension as such groups increased in power and numbers, and the first phase would probably not be attractive in its quality and style. We might expect, moreover, that the very same liberal, socially conscious groups now urging a "fair shake" for our minorities may themselves soon be embarking on new reform crusades without quite realizing what was happening. It has all happened in the past.

But what *would* be happening? It would be the same process of assimilation and socialization, the same "mobility-cycle" (though they did not call it that) which was undergone by the Irish after the Civil War, and after them the Jews and Italians. It is a process full of corruption and full of vitality. What we know about *those* groups may well give us the clues we need for plotting what is still to come.

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INDUSTRIAL DEMOCRACY AND THE BRITISH LABOR MOVEMENT*

I. *The Triumph of "Webbism"*

THE history of socialism has been marked by a deep fissure between the "state socialism" of Marx (and, particularly, his followers)—denounced as inherently authoritarian by its opponents [1]—and the decentralized, individualistic type of socialism developed by Proudhon and his successors—anarchists, syndicalists, guild socialists. It would be erroneous, I believe, to overemphasize the difference in the ultimate vision of socialist society and socialist man which divided these two schools of thought. They shared the ideal of an ultimate harmony between free men and orderly, noncoercive society, and of a society in which the curse of labor had been lifted and work had become, once more, a creative, nonalienated projection of human personality instead of imposed and mechanized drudgery. Where they differed—and differed profoundly—was in their appraisal of the means, short-term and long-term, which they considered necessary to reach this ultimate goal. The dividing issue was the profound conviction of the antistatists that socialist liberty was incompatible with a coercive industrial structure; and that noncoercion was characterized by coöperation between free

* A visit to Britain in the summer 1955 during which I was able to interview many members of the British labor movement as well as to collect published material and participate in several summer schools was made possible by a grant of the Columbia University Council for Research in the Social Sciences to whose members I wish to express my appreciation.

1 See, e.g., Proudhon, *What Is Property?* (Princeton, Mass., 1876), particularly pp. 261-262; Michael Bakunin, *Marxism, Freedom and the State* (London, 1950), a selection of relevant statements. The following is a characteristic expression of the antagonism to Marxism by Kropotkin: "It is not for us to answer the objections raised to authoritarian Communism—we ourselves agree with them. Civilized nations have suffered too much in the long, hard struggle for the emancipation of the individual, to disown their past work and to tolerate a Government that would make itself felt in the smallest details of a citizen's life, even if that Government had no other aim than the good of the community." Petr A. Kropotkin, *The Conquest of Bread,* cited by Margaret Spahr in *Readings in Recent Political Philosophy* (New York, 1948), pp. 382-383.

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agents and would be vitiated by central organization and state-directed production.

In Britain this division expressed itself in the prolonged split between the Fabian viewpoint epitomized by the Webbs and the position of the guild socialists [2] and subsequently of some of the largest British trade unions. At the heart of the conflict was, in one form or another, the demand for "workers' control" or "industrial democracy"; the conviction of the dissenters that the liberation of the industrial worker—and this appeared to them the heart of socialism—could come about only if he, directly or through his elected and accountable representatives, participated in making the decisions which affected him in his function as worker, as producer. The advent of socialism was thus expected by them to change fundamentally the very tenor of working life for those in factory and mine. Army-type hierarchy and discipline through which workers had been subordinated to managerial planning as well as capitalist exploitation were to be replaced, so the anti-Fabians postulated, by free and voluntary coöperation for production. The instrument of this liberation (though disagreement existed as to the best way of implementing the goal) was to be a system of industrial self-government.

The transformation of a number of hitherto privately owned industries (coal, transport, steel, etc.) into public corporations by the Labor government between 1945 and 1950 marked a decisive defeat for the opponents of state socialism.[3] The public corporation rested on three constitutional and administrative principles: appointment of expert managers by a responsible minister; full accountability of these managers to the minister and of the minister to parliament for basic decisions; and management of the nationalized enterprises in the spirit of business efficiency. Each one of these principles reflected the complete rejection of demands for some form of "workers' control".

[2] E.g., G. D. H. Cole's slashing attack on the Fabians and other upholders of state socialism: "Collectivists . . . are knaves, who hate freedom, or they are fools, who do not know what freedom means, or they are a bit of both." Quoted by Alexander Gray in *The Socialist Tradition* (London, 1947), p. 437.

[3] For an authoritative account of this development see Robert H. Dahl, "Workers' Control of Industry and the British Labour Party", *American Political Science Review*, XLI (1947), 875-900.

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The Webbs, in their concern for an efficiently operating and expanding economic system had long ago declared workers not only unqualified for but peculiarly disqualified from participating in decisions involving production. They contrasted the needs of the community (of consumers) for flexible and low-cost production with the unconcern of workers for "gratification of consumers' desires" and the producers' understandable though irrational "overwhelming bias in favor of a particular material, a particular process."[4] In the Webbs' view, the consuming public thus required protection against the worker-producers. But even in a socialist society the workers, in turn, would require protection against the pressure of consumers "for cheapness and lowering of costs." Thus trade unions, the Webbs argued, would have to remain independent and uncompromised by identification with managerial decisions in order to fight for the workers' point of view against "bureaucratic stupidity or official oppression."[5]

This argument, at first rejected by the trade unions, was finally fully accepted by the leaders of the Trade Union Congress in 1944 and has since become an unquestioned article of faith with the most powerful among them.[6] Trade-union leaders apparently came to perceive the advantage of exercising influence without formal responsibility and thus discovered the strength in their former opponents' traditional argument: that appointment of trade unionists to managerial positions would represent a threat not only to the interests of the consuming public but to the trade-union movement itself. For they became convinced that they could not simultaneously fill the potentially incompatible rôles of representatives of the worker-producers and of servants of

4 Sidney and Beatrice Webb, *Industrial Democracy* (London and New York, 1902), pp. 818-819.

5 *Ibid.*, p. 825.

6 76th Annual Report of the TUC, Appendix D, London, 1944. See, furthermore, statements by Will Lawther (National Union of Mineworkers) at the 1948 Conference of the Labor Party, in *Report of the Forty-Seventh Annual Conference of the Labour Party*, p. 170 (hereafter cited as *Report*); and of the late Arthur Deakin (Transport and General Workers Union), Ernst Jones (Miners), and Harry Douglas (Steelworkers) at the 1953 Conference (*Report*, pp. 131-133). That this view is not unanimous among trade-union leaders is indicated below. (See p. 522.)

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the Crown's minister responsible through him to the political community at large.

Not only the trade unions, but the political branch of the British labor movement, the Labor party, had in 1945 little incentive to refurbish the concept of workers' control. In order to obtain a majority at a general election it had to appeal to groups and strata outside the industrial working class proper. Among those strata—even among industrial workers, and particularly their wives—a non-ideological consumer orientation prevailed. The Labor party thus found the promise of immediate material improvements (housing, pensions, health service, full employment) the most rewarding and unifying electoral common denominator. The immediate and primary task facing any British government at the end of the Second World War—and thus the *sine qua non* of any advance toward an ultimately reconstructed society—was to expand Britain's productive capacity in order to maintain and improve her competitive economic position. Committing itself, furthermore, to the establishment of a welfare state and a rising living standard for the British working population, the Labor party could obviously not reject the emphasis on efficient industrial production it had inherited from the Webbs. Thus British socialists—even those intent on a fundamental transformation of British society—realized that the party could " not afford to risk failure and confusion by trying to be too democratic at the very start," [7] and settled on that method of public ownership which altered least the established pattern of industrial administration. Furthermore, as a corollary of the war against Nazism and the five-year partnership in the coalition government, the Labor party leadership was once again united in profound regard for the constitutional niceties of parliamentary democracy, disowning any reliance on other than traditionally accepted parliamentary methods for the achievement of its objectives. These required that parliamentary control over public enterprises be assured by enforcing responsibility on the respective ministers. Parliament, in turn, could fix responsibility on ministers only if they had full power to appoint at will and hold accountable for performance in accord with minis-

[7] This remark, made by G. D. H. Cole in the 'thirties, applied *a fortiori* in 1945. Quoted by Dahl, *loc. cit.*, p. 888.

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terial directives the persons administering the nationalized industries.[8]

Thus, when the Labor party assumed power in 1945 the leaders of the movement—trade unionists and politicians alike—had agreed on the public corporation as the chosen instrument for the projected nationalization program. They had agreed, furthermore, to abandon every trace of workers' control in devising the manner in which managerial boards were to be appointed. The minister was granted full power to select personnel. He needed to consider only the appointees' experience and qualifications. Though "experience in the organization of workers" was accepted as one of the desirable qualifications in order to make professional trade unionists available for appointment, the Nationalization Acts made it unequivocally clear that these, if appointed, would not serve as "workers' representatives" but as administrators accountable exclusively to the respective minister.[9] In exchanging statutory responsibility for less tangible —but no less real—influence, the trade unionists' right to be consulted on all matters "of mutual interest" was officially recognized.[10] Joint consultation committees were established by statute in all nationalized industries. So as not to interfere with the principle of ministerial and managerial responsibility these committees were made strictly advisory, set up to explore—at national, regional and local levels—problems not otherwise dealt with in the process of collective bargaining.

The adoption of this pattern of nationalization implied a far-reaching departure from basic assumptions of traditional socialist doctrine. Instead of identifying all of society—as socialists had been wont to do—with the interests of the industrial working class, industrial workers were now viewed as one major interest group among many. This "realistic"

[8] See Herbert Morrison, *Government and Parliament* (London, 1954), for the typically reverential attitude of Labor party politicians toward British parliamentary democracy. By adopting the device of public corporations, ministerial and thus parliamentary control over nationalized industries was, however, intentionally attenuated for the sake of fostering a "businesslike" spirit of efficiency.

[9] Upon appointment they are required to resign their trade-union positions.

[10] Speech by Emanuel Shinwell at the 1946 Labor Party Conference. Quoted by Dahl, *loc. cit.*, p. 897.

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view derived its concept of "interest" from the existing antagonistic society and implicitly rejected, even in theory, the possibility of harmonizing interests through the rational adjustment of individual and group needs to clearly perceived and shared goals. It also transferred the concepts of "efficiency" and "discipline" and the managerial penchant for neatness, hierarchy, and impersonal obedience—so characteristic of the Webbs' thinking—without major modification from the present nonsocialist to the projected socialist industrial structure. By implication, it pessimistically rejected the possibility of a rational reconciliation between individual freedom and social need; and accepted as permanent the necessity for coercive discipline as part of the productive process.

II. *The Stubborn Tradition of "Workers' Control"*

Socialists had long demanded, as the most important feature of their program, the nationalization of the means of production, distribution, and exchange. Yet, while at times the means had come to overshadow the ends or even to be thought of as ends in themselves, socialists always considered "nationalization" as a fundamental instrument to the achievement of a "socialist society". They thus obviously conceived this socialist society as exhibiting features profoundly differentiating it from the existing capitalist one. However vague and confused socialist aspirations for a "new society" may have been, they aimed at a qualitative transformation of human relations—a transformation not exhausted by efficient production (even with some or all industry publicly owned), full employment, welfare services, and rising standards of living with increasing expenditures by individual consumers. These goals, however desirable for the short run, could not be identified with socialism, as long as coercion of man by man and competition between men continued. Brotherhood rather than distributive justice was the ultimate ethical core of the socialist aspiration.

Because it was believed that in a socialist society free and rational workers, possessing a "spirit of workmanship", would coöperate in producing the required goods, socialists traditionally drew a distinction between "nationalization" and "socialization". Nationalization was conceived as hav-

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ing primarily negative content: to deprive the capitalists of their source of power and wealth and to open the way to more rational production and distribution of goods. Socialization, on the other hand, was expected to end "alienated labor", labor performed unwillingly for alien profit and alien masters, under alien control and alien coercion. The Webbs' skepticism toward this socialist expectation must be considered the exception, not the rule; for the vision is shared by socialists as divergent in outlook as Karl Marx and William Morris.

In Britain guild socialism and subsequently the trade unions' long-held demand for workers' control represented attempts to adjust the ideas of William Morris—appropriate only to an obsolete pre-industrial, small-scale method of production—to the realities of modern large-scale industry. Thus, in spite of the surrender of most of the leaders of the British labor movement to the arguments of the antisyndicalists, the aspiration for "industrial democracy" in some form was too deeply embedded in socialist thought to have been quietly laid to rest with the implementation of the "managerial" approach to nationalization. Criticism of this approach for failing to provide for "industrial democracy" thus began almost as soon as the major nationalization measures had been enacted. With the passing years this criticism has achieved the status of a tacitly accepted commonplace uniting various groups in the conviction that the organizational pattern followed in these initial measures—public corporations under boards accountable to ministers—had reached the limit of its usefulness; and that, if the party were to take additional nationalization measures, alternate organizational forms would have to be developed.

Observers have unanimously found that the hopes held, frequently with deep emotion, by many workers prior to nationalization have not been fulfilled and that among the great mass of industrial labor apathy has replaced enthusiasm with regard to extension of public ownership.[11] Some

[11] J. B. Figgins (Railwaymen) spoke of the "complete dissillusion of the railroadmen with the results of nationalization" (1948 *Report*, p. 169); B. C. Roberts declares summarily that "ideologically, so far as the great mass of trade union members is concerned, nationalization has been a failure" (in "Trade Unionism and Nationalization", *Progress—the Magazine of Unilever*, vol. XLIV, No. 245, p. 114); Hugh A. Clegg refers to the "commonplace" that workers' hopes regarding nationalization have not been fulfilled (*Indus-*

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members of the radical Left, backed by the position of the Communist party on this issue, continue to espouse "workers' control" in the form of the traditional demand for election of managers by the workers themselves. They have attacked the appointments to administrative posts as top-heavy with persons unsympathetic to socialism or as unqualified for their tasks. They have revived the demand for trade-union control, or at least trade-union representation on the directing boards.[12] Among the large trade unions the Amalgamated Engineering Union and the National Union of Railwaymen have, at various times, put forward proposals reflecting these sentiments.[13] The debates at Labor Party Conferences reveal that there continues to exist considerable minority backing for these traditional demands. Thus, at the 1953 Conference, a motion by the representative of the Railway Workers asking, not for control, but for "greater participation" in the management of industries by the workers employed in them attracted, at the end of a heated debate marked by disorderliness, almost 1½ million (card) votes.[14] The issue apparently divides the radical from the moderate wing of the movement, the radicals giving voice to and exploiting the prevailing feeling of disappointment among industrial workers.[15]

Criticism of a different nature directed at the official pattern of nationalization has its origin in the widespread apprehension of "bureaucratization" expressed by a large

trial Democracy and Nationalization [Oxford, 1951], p. 61); William Warren Haynes notes the low morale of coal miners which nationalization has not only failed to improve but has perhaps even aggravated (*Nationalization in Practice: The British Coal Industry* [Cambridge, 1953])—an observation amply corroborated by the case study of a coal field, undertaken by the Acton Society Trust, *The Workers' Point of View* (London, 1952).

12 Irene White, *Workers Control?*, Fabian Tract #271, revised edition, January 1951.

13 *Ibid.*; see also the demands by R. Openshaw (Amalgamated Engineering Union) to the 1948 Conference (*Report*, p. 167); J. B. Figgins (*ibid.*, p. 169), and several delegates of constituency parties. In 1951, however, at a special meeting of the AEU National Committee, a Left-wing resolution asking that the AEU formally espouse 50 per cent trade-union representation on boards of nationalized industries as a step toward full worker's control was defeated by a vote of 34 to 18. Mimeographed report of meeting held February 14-16, 1951.

14 1953 *Report*, pp. 129-134.

15 The division within the AEU (see note 13) illustrates this clearly.

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number of socialist intellectuals. Oppressed by the development of state socialism in Soviet Russia, deeply impressed by the writings of Burnham and Orwell which reflect this development, they see in the growth of a despotic, irresponsible bureaucracy the most profound danger to socialist hopes for a new and better kind of society. To members of Socialist Union [16] or intellectuals like R. H. S. Crossman, the traditional antagonism between capital and labor has largely been superseded by the division between labor and management. Thus Crossman has written: "The first task of Socialism, therefore, in the 1950's must be to expose this growth of irresponsible power; to challenge this new managerial oligarchy. . . . Actually, the growth of a vast, centralized State bureaucracy constitutes a grave potential threat to social democracy." [17] They see in the corporate managerial structure—public as well as private—the source not only of continuing power inequalities but of vast income and status inequalities. Absence of private ownership of the means of production, though still deemed necessary, is, as the Soviet example so terrifyingly demonstrates to them, far from sufficient to establish a society as socialist. Their thinking is thus characterized by a dilemma. As socialists they continue to feel obliged to press for transformation of the private economy into a public economy. Yet they are inevitably critical of the established pattern of nationalization, for it advances rather than diminishes the bureaucratization of British society.

Diverse pressures would thus appear to impel the British labor movement toward the development of a theory and policy of "industrial democracy". There is the intellectuals' apprehension of concentrated power and their idealistic emphasis on ending coercion and alienation; there is the radicals' demand for a "drastic change" which, they feel, would restore to the rank and file the enthusiasm born from

[16] Socialist Union is the name of a study group of moderate British socialists who have set themselves the task of reëxamining and restating socialist principles and policies. Their views can be found in *Socialism—A New Statement of Principles* (London, 1952), *Twentieth Century Socialism* (Penguin, 1956), as well as the periodical *Socialist Commentary*.

[17] R. H. S. Crossman, *Socialism and the New Despotism*, Fabian Tract #298, February 1956, pp. 5-6. See also his contribution to *New Fabian Essays* (London, 1952).

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the hope for a "New Jerusalem"; there is, finally, the imperative need of a socialist party to develop and maintain an element of dynamism in its program in order to appeal successfully to an electorate which, in part at least, casts its vote on the basis of ideology and general issues rather than tradition or interest identification. The Labor party, by general agreement, at present suffers from the lack of this dynamism in its program. This lack of movement, the disappearance of inspiration and vision (though at present it does not appear to affect decisively the short-term electoral chances of the party) creates a subjective feeling of malaise which paralyzes precisely the party's most active and enthusiastic members. A party committed to socialism—to a progressive and fundamental modification of the social and economic system—can only with profound unease abandon a self-image which has put constant emphasis on "movement", "change", and "dynamism". Pressure to move beyond the welfare state, to take the "next step toward socialism" (a step in which the problem of further nationalization is obviously crucial), is thus always present. The crisis of British socialism—and socialism elsewhere—is precisely that, despite the acknowledgement of the need for "bold new thinking", very little progress is being made in successfully tackling the central problems facing socialists.

III. *"Democracy of Accountability"*

One predominant socialist objective was and remains to render the economy accountable to the polity; to subordinate economic considerations to social needs. Within the traditional model of British parliamentary democracy this was to be accomplished through the device of ministerial responsibility to parliament for the general direction of the nationalized industries. We may disregard, for the purposes of this study, the question frequently debated whether parliamentary control has been too strongly attenuated through the desire to permit management considerable scope to carry on day-to-day business "without political interference."[18] For it is admitted even by the critics of the present arrange-

[18] An excellent summary statement of the discussion on this issue is given by Eldon L. Johnson, "The Accountability of the British Nationalized Industries", *American Political Science Review*, XLVIII (1954), 366-385. For the view of Herbert Morrison on the same subject see *op. cit.*, pp. 259-282.

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ment that the government does exercise control at least over capital investment and other major policy decisions of the nationalized industries.[19] Yet, whatever further measures may be taken to increase political (i.e., ministerial and parliamentary) control, they are likely to aggravate rather than remedy the problem which proponents of greater "democratization" of the nationalized industries face. The two demands are, in fact, incompatible. Accountability of management to the general public is best achieved by central supervision. The more detailed parliamentary control over management, the stronger the pressure for centralization; the fewer the decisions left for determination at subordinate levels, the less scope for local experimentation.[20] The administrators are put on the defensive, forced to be able to explain and defend at a moment's notice every action taken. Increased emphasis is inevitably put on the keeping of detailed records, on regularity and adherence to precedent, and on clear focusing of responsibility up and down the managerial hierarchy.

Somewhat less formal but no less real than ministerial and parliamentary control is the power exercised by trade unions over both public and (to a lesser extent) private enterprises. The war, the Labor government, and the continuing state of full employment have combined not merely to give the unions a significant check on managerial decisions affecting labor, but to enable them to transform this negative function into positive participation in the very making of these decisions. The trade unions have come to be officially represented on a vast number of advisory government committees.[21] In the nationalized industries they have been statutorily recognized as official bargaining agents for negotiation of wages and working conditions. Only trade unionists are permitted to represent labor at the upper tiers of the joint consultation machinery.[22] In the words of a British student

19 Crossman, *Socialism and the New Despotism*, p. 6.

20 H. A. Clegg and T. E. Chester, *The Future of Nationalization* (Oxford, 1953), p. 155.

21 Sir Vincent Tewson has mentioned "no less than sixty government committees". Cited by J. D. M. Bell, "Trade Unions", in Allan Flanders and Hugh Clegg, eds., *Industrial Relations in Great Britain* (Oxford, 1954), p. 180.

22 Eldon L. Johnson, "Joint Consultation in Britain's Nationalized Industries", *Public Administration Review*, XII (1952), 181-189.

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of labor problems, there is "no aspect of government economic and social policy affecting the interests of working people on which the necessity of consulting trade union opinion, at every level, is not recognized." [23]

The position of the trade unions, thus massively established as participants in formulating the decisions affecting the political economy, may, in one sense, be viewed as a triumphant implementation of one form of "industrial democracy". For, without endorsing syndicalist ideas or permitting themselves to be formally tied to the management side, the trade unions exercise substantial influence on the decisions affecting workers' lives. Why then is it that this accomplishment has not stilled the insistent demand for "true" industrial democracy? The answer, I suggest, lies in the large size, bureaucratized structure, and centralized functioning of the major unions themselves. At the very best, trade unions are examples of indirect democracy. The rank-and-file worker, while he has the right to participate in the election of trade-union officers, is not involved in the process of decision-making. The organizational pattern of British trade unions, based on geographic area rather than industrial unit, makes it likely that negotiations, even at the lower levels, will be carried on by representatives not closely tied to any particular industry or plant.[24] Furthermore, the semiofficial status allotted to the unions reinforces the tendency toward centralization and remoteness. Trade-union leaders sit on numerous national and regional negotiating and consultative bodies. Many are members of the National Executive of the Labor party. As a consequence the gap between the perspective of the workers, confined to the factory bench, and that of leaders confronted with complex issues of national significance is widened. Centralization makes for discouragement of local deviations and innovations. Where local developments are favorable to labor, trade unions are unwilling to see these advantages confined to a locally limited work force and insist on their "nationalization"; that is, their application to the entire industry.

[23] Bell, *loc. cit.*

[24] There are some exceptions. Thus the Miners Union is, for all practical purposes, an industrial union, owing to the prevailing identity of district and industrial unit in coal mining.

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Differences between leaders and rank and file are further enhanced by the very success of trade-union leaders in acquiring influence on national economic policy. For, while these leaders—in accord with their recently acquired conviction—have succeeded in remaining formally independent of managerial ties, this independence becomes in fact largely fictional when policies of the government are known to have been framed by or with the consent of the union leadership. Yet finding itself faced with lower-echelon challenges to its authority or with a high degree of apathy on the part of its members, this leadership guards all the more jealously its claim to be viewed exclusively as the democratically elected body representing industrial labor.

IV. *Beyond Joint Consultation?*

The idea of a "community of interests" in the productive process has been maintained alongside British Labor's renewed stress on the inevitable functional divisions between management and labor. During the Second World War it led to the widespread adoption of Joint Production Committees where workers' representatives participated in the planning of efficient production. The statutory establishment of joint consultation machinery in the nationalized industries represented an attempt to adapt this wartime experiment to peacetime conditions while safeguarding both the legal accountability of management and the trade unions' wish for formal independence. Thus great stress was laid on the advisory nature of the committees' functions and on the supposedly clear-cut distinction between areas of negotiation—reserved for the traditional bargaining process carried on by the trade unions—and the large residual area of worker-management relations not falling under the heading "wages and working conditions".[25] It is agreed that joint consultation does not—and at present is not intended to—amount to or even approximate "workers' control". But the question is still open whether joint consultation should

25 For a general discussion of the subject, see Johnson, "Joint Consultation in Britain's Nationalized Industries"; and for an authoritative statement of trade-union leaders' firm insistence on the separation, Arthur Deakin, "Some Problems of Works Consultation", *Research*, vol. V, No. 8, August 1952, pp. 351-354. Much confusion exists, however, in practice about the distinction between negotiable and consultative aspects of industrial problems.

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be restricted to the function of a "channel of communication" between management and labor [26] or whether it should become the means to the achievement of joint responsibility and joint decisions.[27] As presently constituted, joint consultation has clearly failed—particularly at the shop level—to kindle enthusiasm in the workers despite the generous verbal approval bestowed on it from various official quarters; and it has thus contributed to the widespread disenchantment with the Labor government's nationalization measures.

The decisive criterion of industrial democracy is the participation of the industrial worker in the decisions affecting his working life, as well as the achievement of subjective awareness on his part of his power over and responsibility for these decisions. The heart of the problem therefore is the devolution of the decision-making process in industry. The most cursory investigation will show, however, that the imperatives of large-scale production do not permit an across-the-board devolution of all decisions to the level of the individual plant, shop, or the smallest face-to-face unit. The term "imperatives of production" implies that industry serves by necessity goals other than that of democratic participation. The productive unit does not exist for its own sake—unlike the democratic state it is not goal-open—but is primarily an instrument for the satisfaction of the changing needs of the "market".[28] In the accountability of the industry to the market—in a socialist and capitalist system alike—lies the outer limit to local industrial self-determination. Yet it is by no means certain that the demands made by the market on the industrial system are or must be experienced as alien impositions, as denials of freedom, by the workers whose labor and rewards they circumscribe. In a socialist economy major decisions affecting the conditions of production are ideally taken within a framework of continuing pub-

[26] The majority of managers in private firms with consultative schemes is reported as viewing them as "up-to-date techniques, for improvement of management worker relations." National Institute of Industrial Psychology, *Joint Consultation in British Industry* (London and New York, 1952), p. 59.

[27] H. A. Clegg and T. E. Chester, "Joint Consultation", in Flanders and Clegg, *op. cit.*

[28] The term "market" is here used broadly to connote consumer demands, whether expressed economically through a price-and-profit system or politically through a system of planned production priorities.

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lic debate; workers are expected to participate in this debate through a variety of channels and are informed and educated by it as to the rôle of their own work in relation to the economy as a whole. Furthermore, the fact of nationalization has theoretically removed the major "objective" obstacle to rational harmony. For rationality (that is, productive efficiency) now benefits not a private capitalist owner but the community of which the worker is a member as citizen and consumer. What the practical limits to such rational integration of the workers into community goals are in an open society is as yet unknown. On one hand, there is evidence that industrial workers widely accept the hard framework of economic interdependence, even when these imperatives adversely affect their own lives.[29] Yet it is also clear that deeply held suspicions and feelings of grievance—frequently ideologically reinforced—do not give way lightly even in the face of seemingly so fundamental a change as transfer of the industry from private to public ownership.[30] But whether the suspicion and antagonism toward superiors and administrators are inevitable psychological concomitants of the hierarchial relationship of industrial super- and sub-ordination and of the functional divisions accompanying it can be determined only after much more extensive efforts at imparting information and accepting criticism and suggestions have been undertaken. Until these efforts have been made we cannot ascertain with any certitude the limits which the "hardness" of industrial organization imposes on voluntary coöperation in the place of coercion.

What are the reasons that these efforts were not undertaken by the Labor government when in power? The decision to

[29] Haynes (*op. cit.*) states that joint consultation has frequently succeeded in obtaining peaceful acceptance of changes, even such drastic ones as the closing down of uneconomic pits. Ferdynand Zweig concludes on the basis of a large number of interviews that only a small minority of workers lack a basically rational and fair approach. *The British Worker* (Pelican, 1952), pp. 118 *et seq.*

[30] See Haynes (*op. cit.*) for discussion of the many wildcat strikes plaguing the nationalized coal industry (pp. 165 *et seq.*); also Acton Society Trust, *The Workers' Point of View.* In some industrial areas, e.g., the South Wales coal fields, control of trade-union organization by Communists has made perpetuation of old frictions inevitable. Communist trade unionists see no reason to trust the National Coal Board and seek to retain the miners' loyalty by playing on their traditional and deep-seated sense of grievance.

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take over industries without unduly disturbing the existing managerial hierarchies—concentrating on shifting the locus of accountability—implied acceptance of the traditional distinction between managerial responsibilities and prerogatives on one hand, and trade-union functions and workers' tasks on the other. Labor leaders were being "realistic" in accepting and perpetuating habitual conceptions of efficiency based on discipline and enforced by sanctions. Simultaneously, owing to their tendency to ideologize issues, they grossly overestimated the lasting psychological effect of nationalization. Retention of managers indoctrinated with the traditional outlook led to lack of readiness to experiment with the replacement of sanctions by persuasion and thus perpetuated workers' suspicions, the removal of which was, in turn, a prerequisite for such a transformation. The immediate result of this kind of experimentation may well be lower rather than enhanced efficiency as measured by output. It requires efforts, facilities, expenditures outside the scope of traditional managerial activity. In view of Britain's difficult economic position, as well as the background of many of the managers inherited by the Labor government, failure to tackle the problem of information and education by radical methods is hardly surprising.[31]

Most of the thoughtful advocates of "democratization"[32]

[31] The *Fleck Report* on the coal industry (*Report of the Advisory Committee on Organization,* for the National Coal Board, February 1955) with its stress on efficiency, training, expertise, discipline and accountability hardly indicates the intention to undertake the task of mass education and information in novel and imaginative ways. The fact that Hugh Gaitskell (in interview) used the term "first rate" to describe the Report indicates that he, too, is unlikely to depart widely from the traditional approaches to the problems of industrial structure and labor-management relations. The alleged incompatibility of the spirit pervading the *Fleck Report* with socialism and industrial democracy is forcefully expressed by the following attack on the Report by Hugh Clegg: "If socialism means no more than the extension to publicly owned enterprises of the managerial methods found suitable to private monopoly capitalism, then socialists can pack their bags . . . . It would be impossible to see its [the Report's] acceptance otherwise than as the last nail in the coffin of industrial democracy . . . . What have socialists to offer?" "Mines and Managers", *Socialist Commentary,* April 1955, #19, pp. 107-109.

[32] The following is a brief list (with no claim to completeness) of the most active contemporary advocates of industrial democracy and of some of the publications reflecting their views: Allan Flanders, who is largely responsible for the relevant chapter in *Twentieth Century Socialism;* Michael Young, *Small Man—Big World,* British Labour Party, Towards Tomorrow Series #4, February 1949; R. D. H. Roberts (of the National Electricity Authority), in

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today do not deny either the continued necessity for some form of managerial authority or for the trade-unions' need to remain independent of management as an intra-industrial "opposition".[33] They share, however, the belief in the possibility and desirability of continuous involvement in decision-making by workers at the shop level; and thus of the greatest possible functional devolution to the local unit. Most of them, furthermore, believe that this development should take place by utilizing and expanding the scope of present consultative facilities rather than by the statutory establishment of new machinery,[34] devolving on these committees policy-making powers in some appropriate functional areas. On the crucial point, whether ultimate responsibility for certain decisions should be actually turned over to these committees—thus absolving managers from responsibility at least in certain limited areas—these present-day proponents of industrial democracy remain, however, rather vague. They may think that where consultation is comprehensive and continuous the dividing line between consultation and decision-making becomes greatly attenuated, *de facto* if not *de jure*. The "sovereignty" of the management, already checked by the workers' right to strike and the clauses of collective agreements, would be rendered largely formal by commitment to formulation of policies on the basis of agreements continuously arrived at.

"Industrial Democracy and Joint Consultation", *The Industrial News Letter*, New Series #3, March 1955; Wilfred B. Brown, managing director of Glacier Metals Co., whose far-reaching scheme aiming at workers' participation has been analyzed by Elliott Jaques in *The Changing Culture of a Factory* (London, 1951); W. H. Scott (of the University of Liverpool), in "Industrial Democracy—A Revaluation", Department of Social Science, University of Liverpool, Occasional Papers #5, 1955; Michael Shanks, "Industrial Democracy: what next?", *Fabian Journal*, #17, November 1955, pp. 15-19; and G. D. H. Cole, e.g., "Is This Socialism?", *New Statesman and Nation* and Fabian Society Pamphlet, July 1954. Several of the persons mentioned also replied to an inquiry among Fabians on the issue of industrial democracy initiated by Austen Albu, M.P.

33 On this point see, particularly, H. A. Clegg, *Industrial Democracy and Nationalization, passim.*

34 Some (e.g., R. D. H. Roberts, *op. cit.*) favor the establishment by statute of shop-steward committees with clearly defined functions (similar to those instituted in most European countries) or of joint consultation machinery in privately as well as publicly owned enterprises (e.g., Ian Mikardo, interview), but the prevailing opinion favors voluntarism and experimentation.

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What likelihood is there that the proponents of "shared power" and devolution will be able to affect seriously the views and policies of the labor movement as a whole? The lessons derived from the experience of joint consultation are relevant to an answer to this question. The weaknesses exhibited by joint consultation may be an indication of the lack of realism inherent in any scheme for industrial democracy. They may be due also—as the proponents of the scheme argue—to the limited nature of the experiment and the unconstructive attitudes exhibited by management and labor representatives—attitudes which are not necessarily part of "human nature", but are capable of modification through learning and experience. As the more extreme forms of syndicalism or guild socialism have been generally abandoned as incompatible with the economic functioning of large-scale industrial enterprises in a complex industrial civilization, the debate narrows down to the degree of supervision to be exercised by accountable managers; or, put differently, to the degree of local variation, spontaneity and discretion that is permitted and feasible within the network of over-all directives. By adhering to the concept of full managerial responsibility on *all* levels of administration the Labor government implicitly committed itself against the distinction between diverse levels of decisions and execution and thus established a formidable barrier in the path of devolution. I have already mentioned the centralizing tendency which accountability to parliament creates; and the authoritarian attitude which many managers, unaccustomed to consulting the views of their "hands", bring to the demand for the sharing of information or power with the workers. The trade unions, at present not merely reconciled to but positively satisfied with their rôle in the existing structure, emerge as further important centers of resistance to any development toward plant—or shop-level—devolution. Even at the time when the leadership of the Trade Union Congress favored "workers' control" this was conceived as *trade-union* representation at the top level of the managerial hierarchy, with little attention paid to the problem of decentralized policy-making.

The trade unions, national in scope, not organized on industrial lines, and lacking comprehensive workshop organi-

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zations, are committed to uniformity as a guarantee of social justice. Feeling strongest and most secure through their entrenched positions at the top of the industrial and political hierarchy, they have come to favor rigorous centralization through national bargaining.[35] Furthermore, by their insistence on separating the bargaining process concerned with "wages and conditions" from other issues arising in the industrial relationship, they tend to block the development of participation at the shop level which, so its proponents argue, can flourish only if all issues of common concern can be taken up and discussed without the imposition of formal and artificial barriers.[36] Trade unions are, however, little inclined to delegate to committees elected at the shop level powers to discuss and perhaps even to settle issues as they arise. For they habitually view shop-steward committees (whose members as a rule are loyal trade unionists) as well as consultative committees (where union membership is not generally a prerequisite) with considerable suspicion. In trade-union eyes such shop-level organizations are in the permanent danger of becoming "Left" or "Right" deviationists. They may turn into channels of radical challenge to the legitimate trade-union leadership[37] or, conversely—inexpert, inexperienced, and lacking independence—are too easily transformed into manipulable tools of management. Thus, where shop organizations have been made part of the British trade-union structure (by no means a general phenomenon) they are usually tightly controlled and frequently reduced to the rôle of collector of union dues.[38] Similarly, the unions have aimed to control joint consultation committees, even at shop level, thereby hampering their functions in a number of ways. Unless the industrial unit coincides with the geographic district, these committees include nec-

35 For a criticism of this tendency see Acton Society Trust, *The Framework of Joint Consultation* (London, 1952); also Clegg and Chester, *op. cit.*, p. 353.

36 Scott, *op. cit.*

37 The history of the British shop-steward movement and the continued susceptibility of shop-steward committees to Communist infiltration justify, to some extent, this apprehension. For a fuller discussion of the relation and rivalries between unions and shop organizations see Aaron Warner, "The Role of the Union in the Shop in Britain", *Proceedings of the Eighth Annual Meeting of the Industrial Relations Research Association*, December 1955.

38 *Ibid.*; also Scott, *op. cit.*

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essarily representatives of several unions and tend to become the arena for inter-union rivalries. As they cannot be effectively controlled by any one union and, furthermore, represent a pattern cutting across traditional lines of organization, they are not entirely trusted by the unions. Preoccupied with "antagonistic" bargaining in a geographic rather than industrial area, professional trade unionists have little interest or time for this "newfangled" institution based on assumptions alien to their thinking. While in the nationalized industries the position of the unions has been statutorily secured, and suspicions of "company unionism" are thus groundless, the elements of inter-union rivalry, fear of being deprived of traditional functions, and apprehension about waning or shifting loyalties of their members persist and adversely affect the unions' attitude toward joint consultation.

In addition to the indifference and even hostility shown by major trade unions toward schemes of extensive shop-level delegation, structural and psychological difficulties besetting industrial decentralization have led many observers not otherwise committed to the trade-union position to become skeptical of sweeping changes in the present industrial structure. Opponents of schemes for "industrial democracy" frequently contend that most workers are not particularly eager to participate in industrial decision-making; that workers, by and large, prefer to accept their rôle as mere executants of managerial directives and to avoid acceptance of additional and seemingly unnecessary responsibilities; and that the agitation for change is carried on merely by a small minority of ideologically motivated sentimentalists. Implicitly or explicitly these critics reject the ideal of the industrial plant as a "community", considering it not only unachievable but also as undesirable. They are suspicious of the anti-individualist implications of the enthusiasm for fulfillment through collective effort and the shared joys of communal life. The conflict between the collectivist and individualist conceptions of socialist society revealed in these divergent viewpoints is profound and has the utmost significance for the future development of socialism. It is likely to become an increasingly significant source of division as achievement of short-term objectives leads to the more insistent raising of questions about the nature of—and, therefore, the path to—

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the ideally envisioned society.[39] Yet the assertion of worker apathy—whether well founded in fact or not—fails to answer the arguments of the zealous advocates of industrial democracy. For these are not positivists, concerned with meeting what may or may not be an existing and clearly formulated demand, but visionaries who believe in the creation of a society in which the manipulation and subordination of the individual will have been replaced by democratic coöperation worthy of free men. Theirs is thus an imperative ethical demand for freedom and for the creation of a different type of human personality with potentialities to match its enlarged opportunities.[40]

Reflecting widespread lack of enthusiasm for the established schemes of joint consultation, *overt* rank-and-file pressure for workshop "democracy" seemingly is at present at a low ebb.[41] On the other hand, the disenchantment with nationalization for its failure "to make a difference" may plausibly be interpreted as a *latent* form of the demand for profound structural changes in the direction of "industrial democracy".[42] Studies of existing consultative and partici-

39 British socialists appear as yet hardly aware of the conflict involved. Recently the issue has been raised in highly controversial form by C. A. R. Crosland, "The Arrogance of Austerity", *The Listener,* vol. LIV, No. 13, 17 December 1955. Hugh Gaitskell (in interview) aligned himself with the anti-collectivists, deprecating the ideal of the "work community" and espousing a "quieter" type of socialism where people would find happiness in a "fair and individualized" society.

40 This idealism is reflected, e.g., in *Twentieth Century Socialism,* R. D. H. Roberts' reply to the Albu inquiry; and in oral statements made by Rita Hinden and Allan Flanders in interviews. The reader who might be inclined to smile at the metaphysical nature of their position should be reminded that the prevalent American missionary spirit for democracy and universal freedom rests on similar philosophical assumptions. Slavery and manipulation are condemned by democrats not for practical reasons but because they contradict the "innate dignity of man"—certainly an equally metaphysical notion. For a stimulating discussion of the ethical problems involved, see B. F. Skinner, *Walden Two* (New York, 1948).

41 I base this statement on the unanimous opinions expressed by tutors of Labor-party and trade-union schools whom I interviewed.

42 The strong minority support given at Labor Party Conferences to proposals aiming at industrial democracy has already been mentioned. At a party summer school a discussion on industrial democracy which I had initiated aroused great interest and reached a high pitch of emotion, though it also revealed prevalent confusion and lack of agreement among the participants as to the precise nature of their complaints and proposed remedies.

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patory schemes indicate—to nobody's great surprise—that the workers in industry tend to divide into a minority élite group of those strongly motivated toward participation, and a larger group reacting with considerable apathy. Yet this apathy is not a general, undifferentiated reaction but varies with the immediacy of the issues involved and the effectiveness of communication between workers and their representatives.[43]

At the Glaciers Metal Co.—a privately owned light metals firm—an advanced experiment in co-determination has been carried on for several years with considerable success.[44] Yet the very success of the Glacier experiment serves to indicate the limits—at present seemingly irremovable—which render impossible the transformation of the factory into an ideal democratic community. Decisions still must be made which affect individuals or groups within the enterprise adversely; marginal and gross infractions of work discipline or violations of production requirements continue to demand some sort of sanction. The workers' representatives understandably shy away from accepting responsibility for difficult or painful decisions, fearing to be identified in such conflict situations too closely with the "boss" in their constituents' eyes.[45] The Glacier study as well as the report of the National Institute of Industrial Psychology contains many references to the unhappily ambiguous position—a position not strange to the elected representative in a democracy—in which the workers' delegates find themselves as soon as they accept responsibility for managerial decisions. For, even in a medium-sized enterprise the applicable model of democracy is the representative type and the involvement of the

[43] Elliott Jaques, *op. cit.*, p. 165; National Institute of Industrial Psychology, *op. cit.*, pp. 84 *et seq.*

[44] The Glacier experiment in industrial democracy comprises the following main features: a three-tiered system of elected workers' committees; adoption of a "Company Policy Document" as a "working constitution"; acceptance of the principle that general lines of policy are to be worked out by management in coöperation with an all-factory work council; and that deliberations are to be continued until unanimous agreement is reached. Jaques, *op. cit.*, *passim.* For recent developments, see John A. Mack, "The Glacier Experiments", *Political Quarterly*, XXVII (1956), 311-323.

[45] Sir Charles Reynolds, *Joint Consultation over Thirty Years—A Case Study* (London, 1950), pp. 112 *et seq.*; and Clegg, *Industrial Democracy and Nationalization, passim.*

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mass of workers is thus discontinuous and indirect.[46] The suspicion which many workers feel toward the "boss" and which they, in part, divert toward their representatives, is reinforced by the need to free these representatives of some (or all) of their duties at the shop-floor to make it possible for them to participate in policy decisions. They thereby become objects of envy as well as suspicion unless they compensate, as they are tempted to do, by adopting a "fighting attitude".

The gap between the interested and actively participating minority and the more or less passive and suspicious majority might conceivably be greatly reduced by successful "reporting back" of the delegates to their constituents. Yet, the increasing size of the plant renders frequent and informal face-to-face contacts—probably the only effective method—quite impossible. The process of rational, large-scale production cannot become permissive of the informal, spontaneous, unscheduled contacts which might establish confidence and understanding between representative and constituent. As continuous mass-participation in decision-making is functionally ruled out, the widest exchange of information is a prerequisite to the achievement of a rational basis for judgment. The imperatives of industrial production, having created or contributed to a narrow and frequently distorted outlook on the part of many workers,[47] also prevent or inhibit the application of remedies which might transform it. Even on the most optimistic evaluation of evidence, "industrial democracy" can, therefore, apparently only mean co-determination by an élite of interested and intelligent representatives who will assure the rank-and-file workers that decisions are taken in continuous awareness of the diverse shades of their interests and desires. It can apparently not mean that, subjectively, the majority will cease to feel "alien-

[46] Thus, even in theory, the ideal type of democracy developed by Rousseau in which the "general will" (which I have here identified with "rational imperatives") and individual wills are reconciled is unrealizable in an industrial plant.

[47] It is difficult to apply less harsh terms to the views prevalent among coal miners as reported by the Acton Society Trust investigators (*The Workers' Point of View*). Professor Mack notes that even at the Glacier Metals Co. "the old gap between labor and management remains" and quotes Wilfred Brown as deploring it as a hang-over or fantasy-picture (*loc. cit.*).

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ated" from a system which they will continue to perceive as impersonal, remote, and faintly hostile.

The goal of "industrial democracy" as here discussed requires little or no statutory implementation. What it requires is a tentative and experimental approach; and above all a patient spirit of willingness to sacrifice some bookkeeping values of efficiency and profits to values not equally tangible. Is it likely that the British labor movement will apply much energy to a development of this kind? The issue as here conceived presents to the Labor party little basis for the kind of dramatic appeal which would induce the party to accord to it a high priority of political consideration. Under the standing threat of parliamentary scrutiny and the pressure of economic stringencies, managers of nationalized industries will hardly be inclined to lay themselves open to the charge of "inefficiency". The trade unions, as indicated, are fundamentally indifferent to the alteration of the present industrial structure and little inclined toward experiments of doubtful advantage to them as organizations.[48] Among the leaders of the Labor party neither Hugh Gaitskell nor Aneurin Bevan—representatives of diverse wings and viewpoints—is particularly concerned with furthering industrial democracy as here outlined. Gaitskell's concept of socialism emphasizes equality of opportunity and individual self-development and is hostile to romantic and collectivist ideas. Bevan, in spite of his formal endorsement of some form of industrial democracy, appears too strongly committed to nationalization as well as to ministerial control[49] to be willing to explore the possibilities of decentralized decision-making—which conceivably might flourish without transfer to public ownership. Thus the groups and individuals most profoundly concerned with the ideal of industrial democracy appeal, at present, neither to powerful organized interests within the party nor

[48] Their inclination would rather be to move toward the broadening of the scope of collective bargaining to include many of the issues—long subject to bargaining in the United States—hitherto excluded under the narrow definition given to "wages and working conditions" (B. C. Roberts, *loc. cit.*). This would enhance industrial democracy in the sense of making management accountable to workers' representatives in areas so far left to its free decision. But it would further decrease the opportunity for devolving functions to representatives elected at shop level.

[49] Aneurin Bevan, *In Place of Fear* (New York, 1952), pp. 104, 109-110.

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to politicians in search of dramatic electoral issues; nor, it must be pointed out, to party activists who, disgruntled, demand more immediate and impressive solutions to provide them with the renewed exhilaration of dynamic forward movement.

The major impetus toward a development in the desired direction is coming, paradoxically, from the managers—some, but only some, socialists—who are increasingly aware, in a period of full employment, of the significance of workers' morale for the problem of productivity. American management techniques with their stress on "human relations" in industry are gaining adherents in Britain and have begun to modify the traditional managerial authoritarianism.[50] A notable extension of profit-sharing and consultation schemes has recently taken place in British private firms with the express purpose of securing a stable and contented labor force.[51] Given the powerful centers of resistance within the labor movement, the convenience of accepting—rather than attempting to combat—the hierarchic patterns of industrial organization, the pressure on the British economy to perform efficiently, and the inherent difficulties of creating viable forms of workers' participation, modifications in British labor-management relations are likely to come about only slowly and in a piecemeal fashion; through management intent on applying newly acquired lessons of industrial psychology—where these promise to help increase production—rather than from any significant attempts on the part of the Labor party or the British trade unions to implement the socialist concept of the "dignity of the individual" by radical reforms in the industrial realm.

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50 The conference on "human relations in industry", called on the initiative of the Duke of Edinburgh, is a reflection of this trend. *New York Times*, July 10, 1956, p. 10. The Industrial Welfare Society is actively and apparently fairly successfully promoting the new "enlightened" approach. The ideas of American industrial relations specialists have been popularized in Britain by J. A. Brown in *Problems of Industrial Psychology* (Pelican, 1954), among whose enthusiastic readers I found, significantly, a highly placed young trade unionist.

51 "Co-partnership Schemes in Industry", *Times* (London), June 28, 1955.

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SECRECY IN AMERICAN BUREAUCRACY

MAX WEBER, in his classic analysis of bureaucracy as a form of social organization,[1] holds that a preoccupation with secrecy is an inherent characteristic of administrative institutions. This preoccupation, according to Weber, is based in good part upon functional necessity. Governmental institutions as well as organizations in the sphere of private bureaucracy, find it necessary to keep certain phases of their operations secret in the interest of maintaining a competitive advantage over rival administrative units. For governmental organizations this need is especially pronounced in the area of military and diplomatic operations. In any nation-state, military administration must, in Weber's words, "insist on the concealment of its most important measures." The stake of private organizations in administrative secrecy is likewise high, and stems from such factors as the possession of "trade secrets" which need to be kept safe from the espionage of business rivals.

However, while administrative secrecy has its roots in a perfectly rational concern on the part of an administrative organization for its efficiency or even its existence, Weber also finds that this legitimate concern tends inevitably to transform itself into an obsession. The secrecy which begins as a means toward the achievement of organizational objectives thus becomes in time an end in itself. His explanation of this development in the area of public administration is that it originates in a conscious desire on the part of bureaucracies to insulate themselves from effective outside control. "In facing a parliament," Weber writes, "the bureaucracy, out of a sure power instinct, fights every attempt of the parliament to gain knowledge by means of its own experts or from interest groups." It is, however, equally plausible to maintain—along lines traced in the work of Robert Merton[2] among others—that bureaucratic institutions always

[1] H. H. Gerth and C. Wright Mills (eds.), *From Max Weber: Essays in Sociology* (New York, 1946), pp. 196-244.

[2] *Social Theory and Social Structure* (Glencoe, Illinois, 1949), pp. 153-155.

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tend to transform procedures into purposes and that an obsession with secrecy is but a single manifestation of this general tendency. A rule of secrecy is established, with disclosure being authorized only in exceptional cases, and the path of least resistance for the bureaucrat becomes that of following the general rule and avoiding recognition of disconcerting exceptions.[3] If this view is correct, an exaggerated tendency toward secrecy in administrative institutions could be traced as much to bureaucratic inertia or timidity as to a lust for power.

I. *The American Tradition of Publicity*

American administration, it has frequently been noted,[4] fails in many respects to conform to the stereotype of bureaucracy as developed in Weber's analysis. For one thing, the bureaucratic rôle has traditionally been less professionalized in American society than has been the case in Europe. The idea of a career bureaucracy through which individuals would give their lives to the service of the state has had difficulty establishing itself in this country. For this reason, and because of the wealth of economic opportunities available in the private sector of the community, there has been a constant movement to and from the ranks of bureaucracy by patronage and by other temporary employees. This ease of entrance and exit from bureaucracy has handicapped the development of a system of administrative institutions characterized by a high degree of secrecy. In office, the short-term employee has less time to become habituated to acceptance of institutional rules governing his official behavior, regulations that may, for example, require the preservation of secrecy regarding administrative operations. Out of office, such employees provide fruitful sources of information regarding the internal affairs of bureaucracy, and congressional hearings and other forums from which they may display this knowledge are not lacking.

[3] *Cf.* Wigmore, *Evidence,* #2378, "The subordinate at the lowest point, obsessed by the general dogma against disclosure, prepares a reply denying the application; he will usually not have the initiative or the courage to propose an exceptional use of discretion in favor of granting the application."

[4] See, for example, Dwaine Marvick, *Career Perspectives in a Bureaucratic Setting* (Ann Arbor, 1954), pp. 1-4.

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Apart from these conditions peculiar to American bureaucracy itself, other factors in the general environment of American politics have militated against the development of secrecy in administration. Not the least of these is what has been called the tradition of "luxuriating publicity" in American democracy.[5] The American view has traditionally been that the operations of government no less than other areas of life should be subjected to continuous scrutiny through the searching spotlight of publicity. The premise upon which this view rests is that nefarious activities on the part of government officials can be prevented in no other way than by fear of exposure before the bar of public opinion. Compared to publicity, such internal checks upon bureaucratic misbehavior as a code of honor or of professional ethics are considered to have but negligible value.

Two institutions have worked with particular zeal to maintain the vitality of this tradition of disclosure with respect to American administration. At all levels of government, legislatures and in particular legislative committees have been insistent that the affairs of administration should be open to their own and at the same time to public inspection. In holding to this position, legislatures have been inspired by the belief that the legislative task demands access to all information in the hands of executive officials.[6] While legislative bodies have not in all cases been successful in enforcing their claim, the pressure they have exerted in this direction has had an important effect in holding administrative secrecy within much narrower limits than would otherwise have been the case. European legislatures have by comparison been much less successful in compelling disclosure by administration of the affairs of state. This was especially true in France, and it has been suggested that much of the enervating corruption that characterized the conduct of government during the Third Republic, as, for example, the Stavisky scandal, could have been avoided if the French

[5] Edward A. Shils, *The Torment of Secrecy* (Glencoe, Illinois, 1956), pp. 37-44.

[6] Though legislative bodies have not themselves been averse to conducting their own proceedings in secret when it has seemed expedient to do so. See, in this connection, Clive Parry, "Legislatures and Secrecy", *Harvard Law Review*, vol. 67 (March 1954), pp. 737-785.

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Chamber of Deputies had had adequate powers of inquiry into matters of administration.[7]

The other institution or set of institutions that has been instrumental in restricting the growth of administrative secrecy has been the so-called media of communications, particularly the press. The general view of the newspaper industry, a view that has been supported by the newer media of communications, has been that the people have a "right to know"[8] and that this right can be enforced only if the institutions upon which the people depend for news have access to government officials and government records. The press thus prides itself upon playing a rôle as agent of the people in the continuous struggle it has carried on against the development of secrecy in administration, a struggle that has extended to all phases of government activity, save where matters of a defense–national security character are involved, and even here the press has been skeptical of the uses to which the privilege of secrecy might be put.

An additional interest that has been invoked, if not always as actively mobilized, against the development of administrative secrecy is that of the business and scientific community in the full disclosure of information useful for scientific research and technological development. The rapid progress in industrial techniques characteristic of the American economy has in fact frequently been traced to the unfettered flow of information within society concerning new developments in science and engineering. It should be noted, however, that administrative secrecy has only recently come to be regarded as a serious problem in this regard, since it is only in the last decades that government has become an important source of scientific information relating to industrial development through its entrance upon large-scale research activity in, for example, the area of atomic energy. In the future it can be expected that the claims of

[7] Henry W. Ehrmann, "The Duty of Disclosure in Parliamentary Investigation: A Comparative Study", *Chicago Law Review*, vol. 11 (December 1943; February 1944), pp. 1-25, 117-153.

[8] This title is attached to the most definitive statement of the journalist view on this question, Harold L. Cross, *The People's Right to Know—Legal Access to Public Records and Proceedings* (New York, 1953).

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the business and scientific communities will play an increasingly important rôle in resisting encroachments upon the American tradition of full publicity regarding the activities of government.

Historically, then, it is clear that formidable obstacles have stood in the way of excessive development of the practice of secrecy within American administration, a development regarded by Weber as an inevitable tendency within all bureaucratic institutions. It should here be noted that each of the groups that have been active in support of the tradition of publicity could point to a clear public interest in the success of its special efforts. For the public has an obvious stake in the effective performance of the legislative task, as it does in the availability of information in the hands of executive officials to the media of communications upon which the people depend for knowledge concerning the affairs of government. And the public has no less an interest in keeping open the channels of communications upon which the economic progress of society may be said to depend. In view of the cumulative strength of these considerations it is not surprising that the practice of secrecy has been the exception rather than the rule in the traditional operations of American government.

II. *The Growth of Administrative Secrecy*

Recent years, which have been productive of so many changes in the scope and character of American government, have seen the emergence of a substantial number of pressures directed at increasing the extent of secrecy prevailing in the conduct of American administration. The most visible if not the most important of these factors has of course been the full-scale involvement of the United States in world politics and, more recently, in the cold war with the Soviet Union and its satellites. The expanded commitments of the United States in diplomatic and military affairs would alone have brought about a very considerable increase in pressure toward administrative secrecy, but to this development there has been added the fact that advances in modern science and technology have enormously widened the range of subjects that need to be kept safe from disclosure in the interest of maintaining a military or diplomatic advantage. State

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secrets are, therefore, both more important and more numerous in the operations of contemporary American government.

No less important, though less visible, are the other factors which have contributed to the growth of secrecy in American administration. There is in fact no major segment of the administrative process as it has expanded and developed in recent years that has remained unaffected by this pressure. The expanded scope of governmental regulation in the economic sphere has, for example, brought about an increased need for secrecy in the area of regulatory administration. The resort to secrecy in the enforcement of regulatory statutes is the product of such factors as the desire to protect those subject to regulation from adverse publicity where a suspected violation of the law is still under investigation, as well as the need to insure the government itself from premature disclosure of its investigative efforts where it is moving toward prosecution.[9] Moreover, in connection with both regulatory and financial administration the government now comes into possession of countless records of private business firms containing material such as trade secrets and financial data, which it would be most disadvantageous for the private parties concerned to have disclosed. Much of this information is in fact filed with the legal guarantee that it will not become a matter of public knowledge.

Personnel administration, which has expanded in its scope as government has increased in size, has also contributed to the growth of administrative secrecy. The Civil Service Commission, along with other administrative units charged with responsibility for matters of personnel, is faced with the necessity of maintaining the secrecy of much of the expanding mass of material it has accumulated in connection with its recruitment of government employees. The names and records of applicants for government positions, as well as investigative and medical reports on such applicants, are as a matter of public policy kept from public disclosure in this area of administration. It is recognized that disclosure of certain kinds of material in personnel files might bring damage to an applicant for government employment, at the

[9] For a discussion of the problem of publicity in law enforcement, see by this author, "Law Enforcement Through Publicity", *Chicago Law Review*, vol. 24 (Winter 1957), pp. 225-255.

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minimum perhaps supplying to his employer the information that he is in fact looking for another job, or at the worst publicizing facts about his personal life that may be highly embarrassing to him. Consequently, from the point of view of a personnel agency itself, the maintenance of guarantees of secrecy is regarded as indispensable for the successful operation of a recruitment program.

The mere expansion in the size and complexity of the executive branch of the government in recent years has itself brought about an increased pressure toward administrative secrecy. An expanding bureaucracy, proliferating in a variety of directions, develops a voluminous flow of communications between and within administrative agencies. These communications include such matters as interdepartmental memoranda, advisory opinions, policy recommendations, tentative plans and proposals, the minutes of committee meetings and oral advice. Much of this material has come to be considered by the executive branch as immune from outside inspection for the purpose of encouraging candor on the part of administrative officials in speaking their minds. The confidential status thus accorded internal communications assures administrative officials that unpopular views which they express will not subject them to congressional or public attack. The traditional view of American Presidents on the subject has been that secrecy regarding internal deliberations is indispensable for the efficient operation of executive agencies.

It is of course also true that an expanding bureaucracy tends to develop a more highly refined division of labor and at least one aspect of this development has contributed to the growth of administrative secrecy. The specialization of the public information function leads to a centralization of control in one office over the flow of communications to the public. While from the administrative point of view the institutionalization of the reporting or public-relations function is designed to achieve such objectives as the coördination of expressions of policy emanating from an administrative agency, it inevitably tends also to reduce access to information by closing off sources other than that of the public information unit itself. Many agencies have in fact instituted regulations making it a misdemeanor for subordinate

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officials, aside from those specifically authorized, to release information concerning the internal affairs of an executive agency—data on, for example, disagreements among executive officials over questions of public policy. The net effect of this practice is to cloak from public scrutiny an important segment of the policy-making process, in so far as the internal deliberations of administrative agencies have in recent years come to play an increasingly important rôle in shaping as well as executing government decisions.

The institutionalizing of the public-relations function within administration has an additional constricting effect upon the availability of information concerning the operations of executive agencies. A public information unit has as one of its principal functions the advancement of the public stature and prestige of the administrative agency within which it is located. It has, therefore, a vested interest in restricting the release of information to material which will reflect credit upon the agency. Thus, while the immediate effect of the establishment of a public information unit may be to increase the quantity of communications flowing from an executive agency to the public, the character of this information can be expected to be in the main favorable to the agency concerned. It is for this reason that Congress and the media of communications have tended to look upon the creation of the public information offices as obstructing rather than facilitating public knowledge of executive operations.[10] The principal function of a public information unit has in fact come to be regarded in these quarters as that of preventing the disclosure of information which may prove politically embarrassing to an executive agency.

The factors which have contributed to the growth of administrative secrecy represent trends which do not, at least in the visible future, appear likely to be reversed. This at least would certainly appear to be true with respect to such developments as the cold war, the growth of bureaucracy, the expansion of regulatory activity, and the preoccupation of administration with the formation of public opinion. Such

[10] *Cf.*, for example, the directive issued by the Department of Defense on March 29, 1955, prescribing that information should be released only when it constitutes "a constructive contribution to the primary mission of the Department of Defense." This directive has since been repealed.

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being the case, pressure toward secrecy in administration will if anything increase rather than diminish with time. This fact gives special urgency to the problem of reconciling the legitimate public and private interests served by the developing practice of withholding information with the very real stake of the community in preserving the tradition of disclosure with regard to governmental affairs. Moreover, since administrative secrecy depends to some degree at least upon decisions and actions taken in the legislature, the executive and the judiciary alike, it is a problem that will in the future loom large on the agenda of each of these major institutions of American government.

III. *The Legal Basis of Executive Secrecy*

The power of executive agencies to withhold information from the public, the press and even on occasion from the legislature itself stems from a variety of legal sources. Quite apart from any specific statutory protection that may exist for the practice of secrecy in administration, judicial decisions have established certain common-law privileges which executive agencies may assert in refusing disclosure of information contained within government files.[11] State secrets, and information relating to matters of military or diplomatic significance, have, for example, been held to be privileged from disclosure even in the absence of a statute bearing on the subject, and the same status has been accorded executive communications which would tend to reveal the identity of individuals supplying information to law enforcement officials regarding illegal activities. In each of these instances, the public interest in secrecy has been held to be so essential as to override any contrary claims. Disclosure of military or diplomatic secrets would jeopardize the safety of the state, while the protection afforded confidential informants of the government is regarded as indispensable for the effective enforcement of the law.

Congress has also enacted legislation which has provided an explicit statutory foundation for the practice of administrative secrecy. In part this has been legislation of general

[11] The best discussion of the scope of executive secrecy in this regard may be found in annotation, *United States ex rel. Touhy* v. *Ragen*, 95 L. ed. 427-434.

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application to all executive agencies. Of central and pervasive significance in this regard is the so-called housekeeping power that has been vested in the heads of executive departments over the "records, papers, and property" of such agencies.[12] Under this general statutory authority, the heads of executive agencies have promulgated a variety of regulations designed to prevent subordinate administrative officials from public disclosure of information to which they have official access. These regulations have been applied both to maintain the secrecy of information that is obtained from private individuals having dealings with the government and to safeguard the confidential character of internal communications within administration. Although the legality of regulations of this character has been questioned, as being inconsistent with the statutory authority on which they are based, such challenges have been uniformly unsuccessful in court. The view of the judiciary has been that an administrative regulation prohibiting the disclosure of official information is plainly within the statutory authority vested in the head of an executive agency by Congress.

Of more recent vintage as a safeguard for the general practice of secrecy within administration are certain provisions contained within the Administrative Procedure Act of 1946.[13] This statute, while generally requiring the publication by executive agencies of information relating to their organization, powers and procedures, also identifies certain specific circumstances in which an agency may withhold information from public disclosure. According to the Act, administrative secrecy is permissible where "there is involved (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating solely to the internal management of an agency."[14] To the extent that the protection thus afforded secrecy by the Administrative Procedure Act is found insufficient, administrative agencies may resort to the further provision of the statute which states that information should "be made available to persons properly and directly concerned except information held confidential for good cause found."

[12] 5 U.S.C.A. #22.

[13] 5 U.S.C.A. #1001-1011.

[14] 5 U.S.C.A. #1002.

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While these statutes of general application provide very broad protection for the practice of secrecy within administration, they are buttressed in many instances by legislation prohibiting specific executive agencies from divulging certain kinds of information obtained in the course of their official activities. Congress has been particularly anxious in this regard to maintain the security of information falling within the general category of state secrets. In enacting the Atomic Energy Act of 1946, for example, Congress included detailed provisions designed to prevent and punish the unauthorized disclosure of information by employees of the Atomic Energy Commission.[15] The scope of the information thus prohibited from disclosure is very broad; it includes "all data concerning the manufacture or utilization of atomic weapons, the production of fissionable material, or the use of fissionable material in the production of power."[16] Administrative officials found guilty of violating this statute face formidable penalties, including, in certain cases, a death sentence.

Confidential information as well as state secrets has also been given specific statutory protection against disclosure. Here the principal object of congressional policy has been to protect the privacy or private assets of individuals or business firms obliged by law to furnish information to executive agencies. The data withheld from disclosure in this connection include trade secrets, census information, the accounts and records of certain business firms, the names of borrowers from banks, and tax returns.[17] The Internal Revenue Code, for example, provides that

> it shall be unlawful for any collector, deputy collector, agent, clerk, or other officer or employee of the United States to divulge or to make known in any manner whatever not provided by law to any person the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any income return.[18]

Punishment for violation of these provisions includes a

[15] See, in this connection, James R. Newman, "Control of Information Relating to Atomic Energy", *Yale Law Journal*, vol. 56 (May 1947), pp. 769-802.

[16] 42 U.S.C.A. #1801.

[17] A list of relevant statutes is given in Cross, *op. cit.*, pp. 232-234.

[18] 26 U.S.C.A. #55.

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$1,000 fine or one year's imprisonment as well as dismissal from office.

In the absence of common-law or statutory protection for the practice of secrecy, the President himself can, of course, assert the discretionary right of the executive branch to withhold information from disclosure where there is a paramount public interest to be served by such secrecy or where it is demanded in the interest of effective law enforcement. Under this general executive authority there have been numerous instances of presidential refusal to release information demanded by Congress in the course of its inquiries into the operations of executive agencies.[19] The rationale employed here in defense of the practice of secrecy is that the President has the constitutional responsibility to "take care that the laws be faithfully executed," and that pursuant to this obligation he must on occasion insist on the secrecy of executive records. Of course, for secrecy to be defended on this basis, the President must interpose his authority between a demand for information and an executive agency, which he may do either by taking personal jurisdiction over the matter in particular cases or, as President Eisenhower did on May 17, 1954, by sending a letter of general instruction to his official family prohibiting disclosure of confidential communications within the executive branch.[20]

Thus common law, statute, administrative regulation and the independent power of the executive in the American constitutional system combine to support the practice of administrative secrecy. To the extent that secrecy rests upon statutory power, the legislature can, of course, amend such statutes so as to withdraw this authority. Currently before Congress, for example, is a proposal to amend the statute upon which the housekeeping power of administrative agencies is based so as to add to the law as presently written the sentence: "This section does not authorize withholding

[19] See J. A. Latimer, "The Power of Congress to Subpoena Members and Documents from the Executive Branch", *South Carolina Law Quarterly*, vol. 7 (Spring 1955), pp. 379-393, where, in an appendix, the occasions on which such refusals have occurred are identified. As Latimer points out, more than half the Presidents from Washington to Eisenhower have refused requests by Congress for information at least once.

[20] President Eisenhower's letter appears in 100 *Congressional Record* 6621 (1954). It was directed to the Department of Defense but was taken by other agencies as applying to them also.

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information from the public or limiting the availability of records to the public." [21] The purpose of this legislation, as stated by one of its sponsors, is to curb the tendency of administrative officials to use a purely housekeeping power as a means of limiting public access to information regarding executive activities. The extent to which this or any other amendment of statute limits administrative secrecy hinges ultimately on judicial interpretation of the laws concerned, for it is the courts which to this date have borne the heaviest task of adjudicating between the rival claims of secrecy and disclosure in the area of administration.

IV. *The Courts and Administrative Secrecy*

The problem of administrative secrecy has come before the courts chiefly in connection with litigation in which the production of government records or testimony is requested, and where such requests are met by a government refusal to furnish this evidence on the grounds that it would reveal matters that should not under law or in the public interest be disclosed in a judicial proceeding. In dealing with these claims on the part of executive agencies, the courts have enunciated a variety of rulings, as the circumstances in which the privilege of secrecy is asserted have differed. Cases in which the government has argued that disclosure of information in its hands would jeopardize the national security have been dealt with by the judiciary in a quite different fashion from those in which the privilege of secrecy is claimed for information regarded by the government as "confidential" though not involving state secrets. Moreover, in this latter area of non-security information, the courts have distinguished between cases in which the government is a third party to litigation and cases in which it is itself a direct participant in such proceedings. Additional judicial distinctions have been drawn with regard to the kind of official from whom disclosure will be required, as well as the type of information an executive agency can be asked to reveal.[22]

[21] See Press Release, House Government Information Sub-committee, January 9, 1957.

[22] An even more complex pattern of judicial decisions has evolved at the state level. See, in this connection, William V. Sanford, "Evidentiary Privilege Against the Production of Data Within the Control of Executive Departments", *Vanderbilt Law Review*, vol. 3 (1949), pp. 73-98.

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State Secrets. In general, however, it would be correct to say that the net impact of judicial decision in this area of the law has been favorable to the development of practices of secrecy in the operations of executive agencies.[23] This is especially true where material relating to the national security is involved in the government's refusal to disclose information before the courts. As enunciated in several decisions, the judicial view has been that the safety of the state must in cases of this kind take precedence over all competitive claims. Consequently, the government has been granted what amounts to an absolute privilege against the disclosure of information relating to matters of military or diplomatic significance. The leading case in this area is *Totten* v. *United States*,[24] where the Supreme Court held that a suit against the government could not even be entertained in the Court of Claims if it would inevitably result in the disclosure of a state secret. A contract entered into by President Lincoln, engaging Totten to carry on espionage activities behind Southern lines in the Civil War, was, therefore, beyond inspection in court. Subsequent decisions, though few in number, have similarly upheld the right of executive officials to suppress information affecting national security.[25]

Though the rule against disclosure of military and diplomatic information is clear, there are two problems arising in this connection that have occasioned judicial disagreement. The first is the question of whether the government, in claiming the privilege of withholding state secrets from disclosure in litigation in which it is involved, should by that fact be regarded as having conceded that the point of evidence in dispute should be resolved in favor of the adversary party. Are there, in other words, circumstances in which the government must accept defeat in litiga-

23 However, in a comparative study of British and American experience in this area it has been pointed out that, as compared with the situation in the United Kingdom, bureaucracy in the United States enjoys only limited privileges of administrative secrecy. Harry Street, "State Secrets—A Comparative Study", *Modern Law Review*, vol. 14 (April 1951), pp. 121-135. The leading British case is *Duncan* v. *Cammell, Laird & Co.*, A.C. 624 (1942).

24 92 U.S. 105 (1876).

25 See, for example, *United States* v. *Haugen*, 58 F. Supp. 436 (1944); *In re Grove*, 180 F. 62 (1910); *Firth Sterling Steel Co.* v. *Bethlehem Steel Co.*, 199 F. 353 (1912); and *Pollen* v. *Ford Instrument Co.*, 26 F. Supp. 583 (1939).

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tion as the price for suppressing state secrets in judicial proceedings? A second and equally controversial problem that has been presented to the courts is that of determining whether to examine the documents alleged to contain state secrets, or to withhold this judicial inspection on the grounds that it is itself a violation of security.

Both of these problems were presented before the Supreme Court in a recent case, *United States* v. *Reynolds*.[26] Here the Court ruled that the government was not obliged to produce documents requested by the plaintiffs, since there were reasonable grounds for believing that exposure of the documents in question would have endangered military secrets. Moreover, the Court declared that in a case of this kind a district judge is not warranted in insisting that he be given an opportunity to inspect personally documents for which the privilege of secrecy is invoked, but should content himself with determining that, as was true in this case, there is a reasonable possibility that state secrets are contained in such documents. In the Court's own words, it is sufficient to determine "from all the circumstances of the case, that there is a reasonable danger that compulsion of the evidence will expose military matters which, in the interest of national security, should not be divulged." [27]

A perplexing issue is posed to the courts by an executive agency's claim that material it refuses to reveal contains state secrets. Against a judicial policy of accepting such a claim at face value stands the consideration that an executive agency may misuse the power thus granted by classifying as secret certain documents which might merely be damaging to its case in court. However, a policy of judicial inspection aimed at evaluating the accuracy of the government's claim that documents it refuses to disclose contain state secrets faces serious difficulties. For, while judges would be quick to point out that such material would be no less safe in their hands than it would be in the possession of an executive official, the plain fact of the matter is that the security of a state secret is inversely proportional to the number of people who know of its existence, and this fact alone would argue against judicial inspection. There is, moreover, the addi-

[26] 345 U.S. 1 (1953). [27] *Ibid.*, p. 10.

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tional consideration that judges have no particular competence to determine at what points state secrets are included within documents they may inspect, given the fact that much of this material is highly technical in character. As a result judicial inspection would in the end have to be made in secret under executive guidance. A court inspection conducted *in camera* and controlled by the executive would seem to represent small profit to a private litigant compared to the risk involved to the public in increasing the number of individuals aware of the existence of a state secret. It is, of course, true that from the point of view of a private litigant an inadequate inspection may be preferable to no inspection at all.

Confidential Information. Judicial rulings with regard to official or confidential information that executive agencies refuse to disclose are, as has been suggested, somewhat more complex. In a long line of decisions the courts have, in the first place, upheld the right of executive officials to refuse to give testimony or produce documents in court relating to such confidential data in litigation in which the government is not itself directly involved, but where the information is sought in connection with a dispute between other parties. The leading case here is *Boske* v. *Comingore*,[28] where a local collector of internal revenue employed by the Treasury Department refused a request by the state of Kentucky that he produce reports filed with the department that were needed as evidence in a prosecution undertaken by the state. The collector was jailed in consequence of this refusal, which was based on a general regulation of the Treasury Department forbidding subordinate employees to disclose information obtained in the course of their official duties. The Supreme Court, in holding this detention illegal, enunciated what has since become the guiding formula in this area of the law. The head of an executive agency may, under the general housekeeping power granted him by Congress, issue regulations controlling "the custody, use and preservation" of documents relating to the work of a department, and a subordinate employee cannot be required to disobey such regulations.

[28] 177 U.S. 459 (1900).

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In a variety of rulings subsequently handed down, the courts have followed the precedent set in this early decision. Several of these cases have, like *Boske* v. *Comingore,* dealt with the power of internal revenue officials employed by the Treasury Department to keep tax files closed from public inspection,[29] and the courts have stoutly defended the practice of secrecy in this area of administration. In other cases the courts have supported resort to the same privilege by officials in such agencies as the Justice Department.[30] There is, however, one issue in this area that has not as yet been entirely clarified by the courts. The cases to date deal with situations in which a subordinate administrator, acting under orders from his administrative superior, refuses a request for the disclosure of confidential information. However, in a recent case, *Touhy* v. *Ragen,*[31] the Supreme Court intimated that if a litigant were to be successful in having a court order served on the executive official from whose authority the regulation requiring secrecy is actually derived, the precedent of *Boske* v. *Comingore* might not apply.

Touhy v. *Ragen* thus points up a fundamental ambiguity in this area of the law. Past decisions have accepted the fact that the head of an executive agency has the lawful right to retain control over so important an area of decision-making as the release of confidential information to the public, and that he can, therefore, withdraw discretion from his subordinates in this as in other areas of policy. However, the courts have not as yet specifically ruled on the extent to which the executive has himself the power to suppress information from public disclosure in this type of case; they have merely accepted his right to remove this power from others. In an opinion concurring with the decision in *Touhy* v. *Ragen,* Justice Frankfurter indicated his belief that precedents in this area by no means foreclose the possibility that a future court may demand of the head of an executive agency

[29] For example, *In re Lamberton,* 124 Fed. 446 (1903), and *Stegall* v. *Thurman,* 175 Fed. 813 (1910). The same privilege of secrecy has been accorded tax officials at the state level. See *In re Valecia Condensed Milk Co.,* 240 Fed. 310 (1917).

[30] See *Ex parte Sackett,* 74 F. 2d 922 (1935).

[31] *United States ex rel. Touhy* v. *Ragen et al.,* 340 U.S. 462 (1951).

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that he produce documents relevant to litigation before it.[32] However, since there would, in most cases of this kind, be substantial procedural difficulties involved in serving a court order upon the head of an executive agency,[33] the extent of administrative secrecy which is protected under the *Boske* ruling is still very broad.

In cases in which the government is a direct party to litigation, the courts have not as a rule been as willing to grant executive officials the same latitude in suppressing information regarded as confidential as they have when the government is merely a third party to proceedings before the court. In, for example, the case of criminal action instituted by executive agencies, the courts have in a number of decisions established the precedent that the government cannot refuse to disclose information relevant to the case without at the same time allowing the defendant to go free. Justice Learned Hand's opinion in *United States* v. *Andolschek* is often quoted:

> While we must accept it as lawful for a department of the government to suppress documents, even when they will help determine controversies between third persons, we cannot agree that this should include their suppression in a criminal proceeding, founded upon those very dealings to which the documents relate, and whose criminality they will, or may, tend to exculpate . . . . The government must choose; either it must leave the transactions in the obscurity from which a trial will draw them, or it must expose them fully.[34]

The one exception to this general rule arises in connection with requests for information that would lead to disclosure of the identity of confidential informants to law-enforcement agencies. The courts have traditionally held that

[32] *Ibid.*, 473. It should be noted that in the *Reynolds* case, discussed *supra*, p. 554, the Supreme Court upheld the right of the head of an executive agency to withhold information relating to state secrets and not merely confidential matters lodged within his jurisdiction. It cannot, therefore, be considered as having disposed of the issue left hanging by the *Touhy* decision.

[33] These difficulties are discussed in *Note*, "The Touhy Case: The Governmental Privilege to Withhold Documents in Private Litigation", *Northwestern University Law Review*, vol. 47 (September-October 1952), pp. 519-530.

[34] 142 F. 2d 503 (1944).

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an effective law-enforcement system demands that the names of those who supply information concerning illegal activities can, if the government chooses, be kept secret. The same privilege of secrecy is accorded information supplied by confidential informants, save where these informants are called upon to testify. Once an informant appears as a witness, the government must furnish the defense with documents or other material in its possession touching upon his testimony. This ruling was enunciated by the Supreme Court in a recent case, *Jencks* v. *United States*.[35] This decision commanded widespread attention and aroused considerable anxiety on the grounds that it jeopardizes the security of government files. It should, however, be noted that the *Jencks* decision is essentially a reaffirmation of the traditional judicial ruling in cases involving criminal prosecution. The government can still conceal relevant information in a criminal proceeding if it is willing, in consequence, to forfeit its case.

Considerable confusion has also arisen as to the scope of discovery allowed under the *Jencks* decision, and legislation recently enacted by Congress attempted to define that scope with greater precision. In an alarmed dissent from the majority opinion in the *Jencks* case, Justice Clark suggested that:

> Unless the Congress changes the rule announced by the Court today, those intelligence agencies of our Government engaged in law enforcement may as well close up shop for the Court has opened their files to the criminal and thus afforded him a Roman holiday for rummaging through confidential information as well as vital national secrets.

Similar opinions have been voiced in Congress and the press. However, the majority opinion of the Court, as delivered by Justice Brennan, held only that " the petitioner was entitled to an order directing the Government to produce for inspection all reports of [the witnesses] . . . in its possession . . . touching the events and activities as to which they testified at the trial."

In civil cases—as, for example, antitrust litigation—the government is also entitled to conceal the identity of confi-

[35] 77 S. Ct. 1007.

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dential informants.[36] The courts have, however, otherwise denied the government the right to withold information in the case of civil actions which it initiates.[37] The rationale here, as stated by one judge, is that it would be unfair to allow a situation to develop in which " one party may obtain evidence from another upon which it seeks an injunction of wide application and to hold the latter in liability for a large penalty, and may refuse to reveal that evidence where required by orderly procedure in the suit brought, on the claim that it is confidential." [38] In civil as in criminal cases it is, of course, necessary for the defendant to show that the information sought from the government is relevant to the subject matter of the case. The right of a defendant to obtain pertinent information from the government does not comprehend the right to take the time of executive officials with a " fishing expedition " into government files.[39]

Where the government has had the status of defendant in a civil action brought by a private party, it has, under judicial decision, also been refused the right to withhold inspection of material it classifies as confidential information.[40] The courts have here reasoned that where the government consents to be sued, it does so, unless otherwise specified, upon the understanding that it will be treated no differently from a private litigant, and it must, therefore, submit to the discovery of evidence within its possession. This rule applied only in situations where the government invokes the privilege of secrecy in the interest of concealing confidential information. Under the *Reynolds* decision, as previously discussed, an executive agency does have the right to refuse to divulge information in litigation in which it is a defendant where the material requested relates to military or diplomatic secrets.

36 *United States* v. *Deere & Co.*, 9 F.R.D. 523 (1949).

37 For example, *Bowles* v. *Ackerman*, 4 F.R.D. 260 (1945), 262.

38 *Ibid.*

39 See *Alltmont v. United States*, 177 F. 2d 971; *Bowman Dairy Co.* v. *United States*, 341 U.S. 214 (1951). Unless some showing of " good cause " for disclosure is required, compliance with demands for information might consume a good deal of time and energy of executive agencies.

40 See, in this regard, *Cresmer* v. *United States*, 9 F.R.D. 203 (1949).

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In summary, therefore, it is clear that the rules developed by the judiciary in connection with litigation that has come before it provide ample protection for the practice of administrative secrecy. This protection is complete in the area of state secrets and very substantial so far as confidential information is concerned. Through adherence to the precedent of *Boske* v. *Comingore*, the judiciary has virtually foreclosed the possibility that sizable leaks in administrative secrecy might be sprung through litigation involving other parties in which the disclosure of confidential information in government files is required. In cases in which the government is itself directly involved in judicial proceedings, no such immunity from disclosure is allowed, but the sanction imposed upon an executive agency in this area for a refusal to reveal information—defeat in litigation—does not in itself force the disclosure of information it may wish to conceal. In addition, executive agencies are accorded the substantial privilege of refusing to divulge the identity of confidential informants to law-enforcement officials. The courts have, therefore, given their blessing to the practice of administrative secrecy as a matter of public policy in certain areas, and in other instances have found it possible to give judicial relief without forcing disclosure of administrative secrets.

Untested in court as yet is the question of the extent to which the national legislature, as distinguished from private litigants, has the power to force disclosure of information that executive agencies decline to reveal. This question has been a source of continuous dispute between the legislature and the executive throughout American history, but to this point it has been carried on in the arena of politics rather than law. By and large, though with some notable exceptions, Congress has been generally successful in obtaining information which it requests from executive officials and records. Its success in this regard can be traced to the very telling sanctions the legislature can impose, through, for example, its appropriations and law-making powers, upon executive agencies which refuse to coöperate in supplying data requested. An administrative agency risks a great deal in remaining obdurate in opposition to a legislative demand for information, though under presidential directive executive officials have on occasion been willing or obliged to take that

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risk. If the question does come before the courts, it will be as a result of a contempt citation entered by Congress against an executive official refusing to testify or produce documents claimed as privileged from disclosure in a legislative inquiry.

V. *Secrecy and Democracy*

For some the problem of striking a balance between secrecy and disclosure in administration presents none of the complexity that the pattern of court decisions previously discussed would suggest. Administrative secrecy is on all counts to be abhorred as characteristic of an authoritarian society and repugnant to the spirit and practice of constitutionalism. It should, therefore, be held within the narrowest limits consistent with the safety of such state secrets as must of absolute necessity be concealed from unfriendly foreign eyes. This is certainly the viewpoint of spokesmen for the media of communications and, as has been suggested, this has been the prevailing view in the American political tradition. "Let there be light", Woodrow Wilson once wrote with respect to the affairs of government in a democracy,[41] and light there has generally been on the operations of American political institutions.

Moreover, while many would argue that the fierce hot light of publicity has on occasion been so blinding as to dim the vision of both the public and its officials, there is no doubt that, when properly used, publicity is indeed a cornerstone of democracy. Public knowledge of the affairs of state is indispensable if the people are, in fact as in theory, to participate in the governing process; for, in this respect at least, knowledge is power. Otherwise, the capacity of administrative officials to withhold information presents them with the opportunity to conceal mistakes that should be revealed for the purpose of fixing responsibility and rectifying error. From the perspective of the public, an equally disadvantageous aspect of administrative secrecy is the fact that it strengthens the capacity of administrative officials to manage the news—through a selective release of information which permits only one possible interpretation of emerging events.

A further consideration is that the communication process

41 *The New Freedom* (New York, 1913), pp. 90-108.

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goes on even where government officials choose to withhold information. However, public opinion is in this event shaped by rumor rather than accurate information, and the popular judgments that are consequently formed may be wildly erroneous. Since administration in a democracy depends upon public knowledge and support for the execution of rational policy, the net result of administrative secrecy may be to limit the capacity of administrative agencies to pursue objectives they regard as essential in the public interest. Thus bureaucracy may in the end be one of the chief victims of its own practice of secrecy.

These are some of the compelling factors upon which the traditional American bias against secrecy in administration is based. And yet, here as elsewhere, the necessity of finding a balance among competing claims remains, for secrecy too has its uses in a constitutional society, more so today perhaps than in the past. This is clear, and generally acknowledged from the point of view of political necessity, since there would be few who would deny the utility of secrecy in protecting military and diplomatic information from disclosure to potential national adversaries. Nor would there be substantial disagreement with the proposition that the vitality of internal deliberations within bureaucracy demands that communications between executive officials be accorded a confidential status.

Less generally recognized, however, is the extent to which administrative secrecy may make a contribution to the purposes as well as the survival of a constitutional society, for the defense of secrecy often rests exclusively on the grounds of political necessity. But so long as a chief, if not the principal, objective of a constitutional system remains the protection of the individual from the arbitrary and capricious use of official power, there can be no doubt that secrecy does have a normative as well as a practical dimension. This is so because the expansion of bureaucratic power that has occurred in recent years has placed in the hands of government officials a great deal of information on what might fairly be viewed as the private affairs of individual citizens, and the promiscuous publicizing of this information could bring serious damage to either the economic status or the personal reputation of such individuals without serving any commen-

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surate public purpose. In so far as rules requiring secrecy guard against this eventuality, they strengthen rather than compromise the spirit and practice of constitutionalism.

Thus the paradoxical fact is that, while administrative secrecy may serve as a device for concealing an abuse of power, it is also a means by which unwarranted use of official power may itself be prevented. This is true at least so long as individuals are conceded to have a right to privacy in a democratic society [42]—the right, that is, to be free from having their private affairs needlessly exposed to public scrutiny. Not all, of course, would be prepared to acknowledge that any such right should be given weight in determining the proper scope of administrative secrecy. From the viewpoint of the press, for example, the transcendent character of the people's right to know makes full disclosure the only policy consistent with the protection of a system of constitutional rights.[43] And the press would be supported in this identification of disclosure with constitutionalism by those who could point to the damage inflicted upon the rights of private individuals in litigation as a result of the practice of administrative secrecy.

Maintaining an equilibrium among all these competing claims is an arduous task, and one that has taxed the ingenuity of the judiciary in the cases that have come before the courts. By and large, and with but one notable exception, the judiciary would appear to have acquitted itself very well in this area of its responsibility. The rules that have been developed through judicial decision to this point would appear to represent a reasonable if not a perfect balancing of the disparate public and private interests affected by the practice of administrative secrecy. The one notable exception would appear to be the decision of the Supreme Court in *Reynolds* v. *United States*, where, apparently because a state secret was involved, the high court departed from the very rea-

42 For an early but perhaps still classic discussion of this problem, see S. D. Warren and L. D. Brandeis, "The Right to Privacy", *Harvard Law Review*, vol. 4 (December 1890), pp. 193-220.

43 At times the argument of the journalist against administrative secrecy is carried to what most people would regard as an extreme. Thus James R. Wiggins, *Freedom or Secrecy* (New York, 1956), criticizes the policy of the Air Force in withholding identification of accident victims until next-of-kin have been notified as an invasion of the people's right to know (pp. 106-108).

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sonable formula of compromise that had been worked out in related though not identical cases. This was the principle that the government is entitled to keep its secrets where it deems this necessary, but that the cause of justice to private litigants is best served if it is obliged simultaneously to forfeit its case in court.

The judiciary can in any event play only a limited rôle in fixing the proper bounds of administrative secrecy in American society. Ultimately, the location of these boundaries will turn to a much greater extent on the shifting fortunes of the perennial institutional conflict between Congress and the President over this issue, a conflict in which the President is as a rule aligned on the side of secrecy and the legislature on the side of disclosure, at least so far as executive proceedings are concerned. They will also be shaped by the continuing efforts of the media of comunications to push back the frontiers of secrecy presently defended by bureaucracy. So long as Congress and the media of communications continue to display the resourcefulness they have exhibited in the past in penetrating and exposing the affairs of bureaucracy, it appears most unlikely that American administration will ever exhibit that degree of secrecy which Weber considered congenital to bureaucracy.

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POWER AND THE PERFECT STATE

A STUDY IN DISILLUSIONMENT AS REFLECTED IN ORWELL'S *Nineteen Eighty-Four* AND HUXLEY'S *Brave New World*

THE late Lord Keynes once described his fellow economists as "the trustees, not of civilization, but of the possibility of civilization." [1] In this, as both Aldous Huxley and George Orwell tell us in effect, Keynes showed himself a true son of the Victorian Age. For, it is the unique feature of the twentieth century that the material requisites for the "possibility of civilization" are at hand. "From the moment when the machine first made its appearance," Orwell's Goldstein (Trotsky) writes, "it was clear to all thinking people that the need for human drudgery and therefore to a great extent for human inequality had disappeared." [2] And in Huxley's *Brave New World* the Controller informs the Savage that "there isn't any need for a civilized man to bear anything that is seriously unpleasant." [3] While Orwell bases the oligarchical collectivism of 1984 on conspicuous production, and Huxley his Brave New World on conspicuous consumption, they both start from the same premise, that science has solved the problem of production. Indeed, the means whereby these rulers of the not-so-distant future choose to dispose of the surpluses created by a phenomenally efficient productive machine offer the key to their power.

The production problem is thus incidental to the economy of abundance that Huxley and Orwell are describing and in this more than anything else lies their pessimism. Ever since man first started to seek the kingdom of heaven here on earth, the cartographers of the perfect state have been obliged

1 Quoted by R. F. Harrod, *The Life of John Maynard Keynes* (London, 1951), pp. 193-94, from an address before the Council of the Royal Economic Society.

2 George Orwell, *Nineteen Eighty-Four* (New York, 1949), p. 190.

3 Aldous Huxley, *Brave New World* (New York, 1946), p. 284.

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to devote a good deal of time to the question of *how* to provide Utopia's subjects with the means for the enjoyment of perfection. Through the application of science to the production of goods, through the redistribution of existing income and property relationships, through the abolition of "costly" and wasteful desires, the Utopians of the last five centuries had hoped to construct a perfect society in which men and women could enjoy that ultimate degree of happiness which, it was implied, they were denied through the folly and wickedness of their present rulers.

True, Utopians have generally been moralists and their morality more often than not has been a little austere for human flesh and blood. But they have rarely been ascetics advocating the willful mortification of the flesh. Thus it was not until after the secularization of the Church in the thirteenth and fourteenth centuries that Utopian works began once more to be written. By the late nineteenth century, indeed, the rapidly accelerating tempo of scientific discovery encouraged the more vulgar of the Utopians to envisage the perfect society solely in terms of the strange and wonderful gadgets which it would have at its disposal. The prophetic novels of Jules Verne, H. G. Wells, and others, all, to a greater or lesser extent, glamorized their Brave New Worlds in terms of the material conveniences and comforts science would put at the disposal of man. The quality of life in such an environment of abundance was either ignored (as in Jules Verne), or, as in the early Wells, described in altogether glowing terms.

As science has transformed fiction into fact (often ahead of schedule), it has become apparent that the remaining material obstacles to Utopia have been—or in the underdeveloped areas of the world are in the process of being—surmounted. It is of course true that there is no certainty that the "subsistence barrier" has been conquered for all time. The Malthusian dilemma will probably continue to be (though perhaps on a "higher plane") a limiting factor to economic expansion. There is every reason to believe, indeed, that the application of limited resources to unlimited desires will continue to challenge man's ingenuity. But—and it is an important but—the emphasis will shift, according to both Huxley and Orwell, from the absolute or relative increase of

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resources (that is, from problems of production and distribution) to the restriction, control or "guidance" of unlimited desires. From the stomach, the art of politics will move to the psyche.

As a result, the whole quality of existing super- and subordination systems will undergo—and, judging from Huxley's and Orwell's other writings,[4] is already undergoing—something of a sea change. Both men are concerned with those aspects of modern science (Pavlonian biology, eugenics and narcotics with Huxley; electronic communications media and cybernetics with Orwell) which will enable future élites to "freeze" the *status quo*. Up to now the élite class in political society has never been secure in its power; changes in the mode of production, wars, votes, intrigues (depending on the kind of society in operation) have constantly threatened it. Pareto's "law" of the circulation of élites operated,[5] for the political structure was never hermetically sealed for all time. Even India and China, where the *status quo* had enjoyed apparently unbreakable religious and institutional sanctions, were ultimately forced to submit to a reconstruction of their social fabric.

Indeed, the absolutely "closed society", to borrow Karl Popper's useful phrase,[6] has existed only in the day dreams of rulers and, more usually, of their ideologists. For, to attribute power to an individual or class is one thing; to exercise that power is infinitely more difficult; to exercise it absolutely is (or rather has been up to now) impossible. "The King can do no wrong" was a maxim developed by fifteenth- and sixteenth-century lawyers at a time when, practically speaking, there was relatively little the king could do—right or wrong. Compared to the effective powers of a modern democratic state, the most absolute Renaissance tyrant was but a shadow. The twentieth-century democratic state, based on popular consent and with carefully circumscribed powers, is able to: (1) conscript and maintain mass armies, (2) *effectively* regulate the external and internal flow

[4] See in particular Orwell, *Such, Such Were the Joys* (New York, 1953), and Huxley, *Science, Liberty and Peace* (London, 1946).

[5] See Vilfredo Pareto, *Mind and Society* (New York, 1935).

[6] Karl Popper, *The Open Society and Its Enemies* (Princeton, 1950), *passim*.

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of goods and individuals, (3) impose *and* collect undreamed of per capita tax revenues, (4) obtain almost instantaneous compliance for its directives, and so on. In the case of contemporary totalitarian countries, where the state's power in law is never less than its power in fact (where the potential is always the actual), we have the nearest thing to the absolute exercise of absolute power known in the history of political society. And in the society of the not-so-distant future, Huxley and Orwell somewhat gloatingly tell us, science will have made the power of the state "absolutely absolute", while man—happily shaking off responsibility according to satirist Huxley, unhappily deprived of personal volition according to moralist Orwell—will have created a society where that power will be instantaneously applied.

The important thing to remember about the "distopias" of both Huxley and Orwell is that they posit a perfectly malleable (and hence perfectly predictable) human nature incapable of experiencing any emotion or exercising any judgment outside of the prevailing (and, in Orwell, continuously changing) frame of reference. The destruction of personal identity in objective reality is thus complete—or nearly complete, for being romantics at heart, both Huxley and Orwell introduce exceptions. Whether or not we can derive any comfort from these essentially impotent rebels we shall leave for more detailed discussion later on. Right now, let us turn to the techniques of *Brave New World* and *Nineteen Eighty-Four* which have succeeded so conspicuously in repealing Pareto's law.

A Matter of Technique: The Means

In analyzing the "technology" of power available to the rulers of the Brave New World and 1984—and the use ("technique") they make of this power—one becomes uncomfortably aware that neither Huxley nor Orwell assumes a level of technology much more advanced than what is already enjoyed in the more industrialized nations today. Thus Orwell's television screens, which enable a probably nonexistent "Big Brother" to keep tabs on every aspect, private and public, of the lives of his subjects, are already being widely used by industry for quality-control purposes, by

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military establishments to insure better communications and by state police to track down traffic violators. Similarly, Huxley's "sleep teaching" methods are being widely practiced in our state mental hospitals (albeit for different ends) under such names as hypnotherapy and narcosynthesis. True, we have not yet succeeded—although in Nazi Germany the attempt was made—in applying modern genetic methods to human beings, but our success with animals makes it at least plausible to assume that we could accomplish equally gratifying results with human beings—especially if Huxley's not at all far-fetched prediction of sexless and artificially "hatched" birth were to come true. As yet there is no "soma" on the market which will allow the consumer to escape reality without adverse physical aftereffects, but we do have the next best thing in the form of escapist entertainments which create increasingly effective ersatz experiences. While no cinema or television process has yet succeeded in reproducing the "bear rug thrills" of the "feelies", we have succeeded in simulating the experience of roller-coaster rides and only recently an imaginative movie mogul patented a new system he called "Smellorama".[7]

Examples like these could be adduced for almost every scientific method or technical gadget found in either *Brave New World* or *Nineteen Eighty-Four*. Certainly, the key to the power of the élite in both instances depends only indirectly on technology. While it is unquestionably true that industrial technology (and, even more important, the social and economic consequences of that technology) has made the exercise of absolute power *possible*, there is no reason to believe—as Huxley apparently does—in a necessary correlation between technological progress and an increase in the actual use of technology for socio-political ends.

Actually, the application of technology and science forms only a small (though extremely important) part in the techniques of power of these two books. Technology merely makes possible the realization of an operational philosophy designed to "freeze" the existing social structure in perpetuity. As such, it is introduced primarily for literary and pedagogic effect. Instead of a long discussion on conspicuous

[7] See *Challenge*, October 1953, p. 64.

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consumption, for example, we get a description of obstacle golf, escalator squash, and so forth. Instead of an elaborate analysis of the political effects of a directed hedonism we get hilarious accounts of "soma", "feelies", scent and color organs. In Orwell, where reference to technology is even more indirect and where the effect sought is realism rather than satire, technology is rarely hilarious and in one or two instances—as when Julia and Winston are discovered in their hideaway by the television screen—it is positively frightening. The reason why *Nineteen Eighty-Four* seems so much closer to home is that our experience has been almost exclusively with the conspicuous-production and police-state kind of dictatorship Orwell is describing. We have no historical experience with a conspicuous-consumption dictatorship based upon an economy of plenty and absolute psychological conditioning—although this may well come to be the more serious danger in countries like the United States.

An operational political philosophy can have no objective beyond the purely pragmatic one of effectiveness. Asked to justify distopia, Mustapha Mond in *Brave New World* and O'Brien in *Nineteen Eighty-Four* both answer, in effect, "It works"; when asked, to what end, both must answer in terms of stability and order—or, in less polite language, the maintenance of existing power relationships. True, Mustapha Mond, when justifying himself to the Savage, refers to the happiness of absolutely conditioned people ("they get what they want and they never want what they can't get"),[8] but in the context of the novel this is really irrelevant since happiness is regarded as a means for the perpetuation of the Brave New World, not the other way round. As for O'Brien, he does not even bother to justify his exercise of power to Winston. Power for him is its own justification.

Let us leave the implications of such an operational view of power, as Huxley and Orwell apparently see it, for consideration later on when we discuss some of the moral questions raised by the two novels. Right now let us turn to some of the specific subgoals of the political philosophy on which *Brave New World* and *Nineteen Eighty-Four* are based. For

[8] Huxley, *Brave New World*, p. 264.

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the sake of convenience, we shall describe these subgoals, and the means devised for realizing them, separately for the two novels. Wherever there is overlapping (and on the subgoal level this is rare) we shall try to make note of it.

Take Huxley's novel first. Since his aim is clearly satirical (not too successfully realized it seems to me—witness Chapter III where for seven tedious pages he juxtaposes, often sentence by sentence, a lecture by Mustapha Mond on the obscenity of motherhood and a shower-room chat between Levinia and Fanny on the duty of promiscuity), Huxley's techniques must be taken *cum grano salis*. His is only a *caricature* of what could be. In the long run, however, the implications of this caricature—based as it is upon an economy of plenty—are perhaps even more frightening for "liberal" Western society than Orwell's historically better-known scarcity dictatorship based on fear, repression and misery.

The two principal subgoals of *Brave New World*, absolute depth conditioning on the subconscious as well as on the conscious level and a directed consumption economy, are intimately related. Since it is essential that consumption not only be conspicuous but be related toward those goods actually available in society, stability and satisfaction can be obtained only through deliberate standardization of demand rather than through adjustment of supply to a "capricious" (economically and politically speaking) and ever-changing demand. But, in the final analysis, this can be done only by exercising absolute institutional control over human utilities and aspirations. By assuming the possibility of artificial mass production of human beings, Huxley is able to have his Central London Hatchery and Conditioning Centre (Motto: Community, Identity, Stability) begin work before conception, let alone birth. The state is thus in a position to control the very condition of human existence. Life becomes literally a gift of the state.

Not only life, but happiness. It is here, I think, that Huxley makes his most telling criticism of industrial society in the West: our conscious pursuit of happiness as the *summum bonum* of life. The tragedy of *Brave New World* is that everyone (except Bernard and Helmholtz, the product

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of decanting errors, and the Savage, the offspring of a "viva-porous" mother who, therefore, doesn't count) is happy. The state, as Mustapha explains, *can* provide its subjects with happiness, and while this gift, like all others, has a price tag attached to it, who cares? Only a Savage, as Huxley ironically points out, claims the right to be unhappy.[9]

Nor is this merely a matter of semantics to be resolved with high-sounding platitudes concerning the difference between "real" happiness and "mere" gratification. In *Brave New World* mere gratification *is* real happines, for the divine discontent, the "longing of the moth for the star", has been snuffed out and it has been snuffed out precisely because the state has benevolently gratified every (conditioned) desire. The danger of the prevailing welfare ideal of the industrialized (originally Western) world—whether it be sought through the state, through other institutions, or even through personal endeavor—is that it is potentially realizable. Perhaps not absolutely realizable as in *Brave New World,* but sufficiently to dull and limit the scope of human aspirations. While it is true that human wants are unlimited (at least, outside of Huxley's novel), it is questionable whether—except in a few rare exceptions—the desire to satisfy those wants is. Given a certain minimal degree of happiness, how many of us will rouse ourselves to risk the pursuit of more?

The happines of its members is thus the single most important factor in assuring the stability of the Brave New World (unlike Orwell's *Nineteen Eighty-Four* which, much more conventional in this respect, is based on misery). Happiness, in other words, becomes a technique of power. Society *makes* people happy (rather than *allowing* them to be happy) and thus habituates them to the *status quo.*

It does this by: (1) absolutely separating sex from procreation and thus removing one of the biggest variables in human behavior; (2) standardizing aspirations, responses and behavior patterns—in this sense, Huxley's genetic differentiation into separate bio-psychological "classes" of homogeneous types (Alphas, Deltas, Gammas) does not seem to serve any immediate function beyond division of labor; the economy of plenty may require ability differences but the

[9] Huxley, *Brave New World,* p. 288.

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stable and "happy" society is better off without them (habituating Gammas that they are better off than Epsilons and vice versa is just so much extra work); (3) removing all inhibitions to gratification and all sources of pain, the idea being to remove all possible frustration; and (4) making all gratifications dependent on society and, wherever possible, upon the economy of plenty rather than upon nature or individual ingenuity.

It will be seen that, while technology is essential in realizing each of these subgoals, it is not nearly as important as the value judgments upon which this synthesis between individual happiness and social stability is based. More on this later.

Now let us turn to 1984 which, at first glance, appears to be a much more appropriate nightmare. (The Brave New World, after all, was originally projected for six hundred years, although Huxley, in a 1946 Foreword, spoke in terms of a single century "if we refrain from blowing ourselves to smitherenes in the interval".)[10] The horror of *Nineteen Eighty-Four* is much more direct, for we have all had experience (most of it happily indirect) with the kind of society Orwell is describing. It is merely the twentieth-century totalitarian state made absolute by carrying the political principles of twentieth-century totalitarianism to their logical conclusion. A pessimist might observe that *Nineteen Eighty-Four* is the only alternative to *Brave New World*.

What is its animating political principle? Fear, misery and repression, the obverse of *Brave New World* whose animating principle, as we have seen, is happiness through instantaneous gratification of every conditioned desire. The moralist in Orwell is very apparent in all this. For, if the state is forced to deny, repress and distort in order to maintain its power, then there must be something to deny, repress and distort. If the state must corrupt man, then he is not corrupt to begin with. Unlike *Brave New World*, the state in *Nineteen Eighty-Four* cannot control the condition of human existence. It can only condition the future of his existence. Instead of the gift of life, the state can offer only the punishment of death—a serious limitation in its power.

[10] *Ibid.*, p. xix.

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For Orwell was always a great believer in the essential "decency" (a favorite term of his) of man and this belief never left him even when, depressed and sick with tuberculosis, he retired to the Hebrides to write this last and most profoundly pessimistic of his novels. True, Winston Smith (the name is a tribute to the uncommon Englishman, Churchill, and the common Englishman, Smith) is finally destroyed, for not even the strongest man can withstand the new state. But there will be others. They will be crushed, of course, but still the cells and torture chambers of the Ministry of Love will never be empty. Most of the rebels will be unwilling, like Parsons and Ampleforth, and will oppose the state in spite of themselves. No matter, man will still be worth saving even when salvation is no longer possible. To the end, Orwell retained his Western faith in man—not natural man or civilized man, but "man who is born of woman" and "whose days are filled with trouble". He remained a humanist.

That, however, is the extent of Orwell's optimism. For, granted that man will continue to be worth saving, he can't be saved in 1984. The *proles*, who constitute 85 per cent of the population of Oceania and who are left free by telescreens and thought police to enjoy their misery, will not rise. "If there is hope," Winston had written in his diary, "it lies with the proles",[11] but Orwell, though as a middle-class Western socialist he is obviously unwilling to deny moral superiority to those who work with their hands, has Winston crush such hopes. "Until they become conscious", he sadly confides to his diary, "they will never rebel and until after they have rebelled they cannot be conscious." Keeping them unconscious, moreover, is not difficult for the state. The state need merely apply the old mildly repressive techniques of nineteenth-century capitalists and the *proles* will revert "to a style of life that appeared to them a sort of ancestral pattern. . . . Heavy physical work, the care of home and children, petty quarrels with neighbors, beer and, above all, gambling filled up the horizon of their minds."[12] The full force of the totalitarian state of 1984 is brought to bear

[11] Orwell, *Nineteen Eighty-Four*, p. 69.

[12] *Ibid.*, pp. 20-21.

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only against the remaining 15 per cent, the party members who staff the offices of the Ministries of Truth (propaganda and the arts), Peace (war), Love (law and order), Plenty (economic affairs). It is these who are the potential candidates for rebellion.

The fundamental problem for the modern repressive dictatorship is how to maintain full employment and at the same time retain the scarcities on which that dictatorship depends. Restricting the output of goods is obviously no solution, for the idleness and privations resulting from a deliberate policy of economic stagnation are obviously unnecessary and will inevitably lead to rebellion. On the other hand, it is equally clear (to old-fashioned meliorist Orwell at least) that an all-round increase in living standards would—given the capacity of industrial technology—make the continued existence of a hierarchical dictatorship impossible since the state depends upon institutionalized instrumentalities to do the repressing. (The Brave New World, on the other hand, is self-regulating. Except for the need of industrial technology for division of labor, the Alpha, Beta, Epsilon differentiation is politically unnecessary for the perpetuation of the "happy" dictatorship. Mustapha Mond, for example, is really a superflous figure.)

In *Nineteen Eighty-Four* this dilemma of the repressive dictatorship is solved in the conventional manner, that is, through war. Other forms of conspicuous production (useless production of statues, wilful destruction, spoilage or hoarding), while they would accomplish the same end, are not satisfactory psychologically. War is not only "a way of shattering to pieces or pouring into the stratosphere, or sinking in the depths of the sea, materials which might otherwise be used to make the masses too comfortable and hence in the long run too intelligent"; [13] it also stimulates an emotional atmosphere in which Doublethink can best flourish. As a result, the three superstates of the book—Oceania (the Americas, the British Isles and Atlantic islands, Australasia and South Africa), Eurasia (most of the Eurasian continent) and Eastasia (China, Mongolia, Tibet, Japan and the Pacific islands)—are engaged in continuous warfare with one another.

[13] *Ibid.*, pp. 190-91.

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Alliances keep shifting and the wars themselves, while they induce strong emotions, cause few actual casualties and are confined mostly to uninhabited borderlands and floating fortresses. Since none of the three superstates can be conquered by the other two in combination and since, moreover, there is nothing in a material sense left to fight about (each state being economically self-sufficient), wars become artificial techniques whereby the ruling élites in the three states can, in a psychologically acceptable manner, use up the products of the machine without raising living standards.

It would be impossible, however, for the repressive dictatorship to realize the full benefits of this mode of conspicuous production without "Doublethink"—a discovery that antedates 1984. "Doublethink", as Goldstein, Orwell's orthodox heretic, defines it, "is the power of holding two contradictory beliefs in one's mind simultaneously, and accepting both of them." [14] Without Doublethink the party would not function. For, when the party intellectual lies, it is essential that he both know that he is tampering with reality and at the same time genuinely believe in his lie. Only thus is it possible to arrest the course of history. Only thus is it possible for the party to "change" objective reality by tacitly denying its very existence. The constant tampering with history (Winston's job consists in revising historical announcements to fit into the current party line), for example, is part of this massive attempt to destroy the individual's relationship with objective reality altogether. In a sense, as Orwell realizes, the freedom to say that two plus two makes four is the most essential freedom. And while Winston in the end is brainwashed into believing—actually believing—that two plus two equals five, Orwell leaves one with the impression that truth, while it will never prevail, will persist and will have to be continuously brainwashed out of human consciousness. Even Newspeak, the language of 1984 especially designed to encourage Doublethink, will never be totally successful in stopping Thoughtcrime from arising, even though it may be able to suppress the "crime" once it has appeared.

[14] *Ibid.*, p. 215.

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Conclusion: A Matter of Morals

It has become fashionable among social scientists in general and political theorists in particular to ignore questions of value and to concentrate exclusively on what is. Both the tradition of the natural sciences and the "open-endedness" of industrial society have encouraged this tendency. And, in a sense, this is understandable. A moral judgment of political behavior must, in the very nature of things, be at least partly *ex post facto*. It is no use to evolve theories of "ought" unless they are based on an empirical knowledge of "is".

Indeed, there can be little question but that a valid political theory that is not based on an "objective" study of political phenomena is impossible. By itself, however, such study cannot provide us with political theory, for it will not answer such fundamental questions as: What is the best form of state? Who should rule? How should a state be ruled? When "objective" political scientists try to generalize in terms of historical experience, saying this is how political institutions arose and functioned in the past, they are in fact passing judgment. For, their pragmatic emphasis on the "workability" of political institutions (whatever is, works) implies a value preference for those factors which make it work.

This brings us to the central problem of both *Brave New World* and *Nineteen Eighty-Four:* the system works splendidly. And it works so well precisely because stability (that is, maintenance of the *status quo*) has become the supreme goal to which all other non-operational values, such as truth, happiness, freedom, must be and are subordinated. In both novels, there is no external value scheme against which either system can be measured.

It is against this sort of operational determinism that Huxley and Orwell rebel. Both are pleading for the right of individuals to be aware of and act upon "apolitical" values. And in *Nineteen Eighty-Four* and *Brave New World* they have shown what is likely to happen when that right is destroyed.

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BURR, HAMILTON AND THE MANHATTAN COMPANY

PART I: GAINING THE CHARTER

WHEN Aaron Burr completed his term as United States Senator in 1797, he was an established political leader of national stature among the Republicans (Democrats), who had given him second place on their electoral ticket in the presidential contest of 1796. Blocked by the Federalists from further appointive or elective office in the federal government, after the election of John Adams over Jefferson, Burr turned, with no visible loss of pride or of position in his party, to the relative obscurity of the New York State Legislature. The rôle of assemblyman from New York City had much to commend it as the base of Burr's political operations. Nowhere was partisan activity more lively than in New York City, a Federalist stronghold which had been shaken in the state election of 1797 by the victory of several Republicans, including Burr.[1] If the Republicans were to win in 1800, New York State must move into the Republican column, and New York City must be weaned from its habit of voting Federalist. To these ends, Burr now devoted himself, holding the national objective firmly in view, but also lavishing painstaking attention on local issues.[2]

It was the contention of Republicans that the two banks in Manhattan, the state-chartered Bank of New York and the branch of the federally chartered Bank of the United States, were owned and directed by ardent Federalists, and, as a contemporary Republican pamphleteer, James Cheetham, later described the situation:

> The benefit of those institutions was chiefly confined to the adherents of one political sect . . . . Such as were active, or had rendered themselves obnoxious in political pursuits, were certain to be excluded from favour; and it became at

[1] Hammond, J. D., *The History of Political Parties in the State of New York* (Buffalo, 1850), I, 324-25.

[2] Schachner, N., *Aaron Burr* (New York, 1937), p. 145; Myers, G., *The History of Tammany Hall* (New York, 1917), pp. 12-14.

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> length impossible for men engaged in trade to advocate republican sentiments, without sustaining material injury .... As the rage and violence of party increased, Directors became more rigorous in enforcing their system of *exclusion* .... Every man acquainted with the political state of the Southern district, must have been sensible of the pernicious effects of Banking institutions upon the freedom of elections, while they were confined within the hands of a single party.[3]

Purely political discrimination against applicants for bank services, while difficult to prove, was entirely in keeping with the spirit of the times and the vagueness of the line demarcating business from politics.[4] Yet the Republicans could hardly have claimed that the threatened reprisals by the Federalist banks caused them the loss of any vast number of votes, since the clientele of those banks was normally so exclusive, socially and commercially, that even the bulk of Federalist voters would not have qualified for bank services.[5]

Whatever the effects of bank policy on the Republican totals in the ballot boxes had actually been, the impact on Burr's strategy was deep and forceful. If the Republicans had in their hands such a financial weapon as the banks possessed, what power would be added to their campaigns! They could give loans and discounts to good Republicans, attract wavering Federalists to their side, and even assist the propertyless man to qualify as a voter.[6] Furthermore, Burr, a perpetual and hard-pressed debtor, was not unaware of the value of a new source of credit to support his lavish style of living and entertainment.[7]

The utility of a Republican financial agency was far more obvious than the means of its establishment. A chartered bank would offer the most direct competition to the Federalists and would be eminently respectable and financially po-

[3] Politicus (James Cheetham), *An Impartial Enquiry into Certain Parts of the Conduct of Governor Lewis . . . Particularly in Relation to the Merchants' Bank* (New York, 1806), pp. 8-9. See, also, *idem, Remarks on the "Merchants' Bank"* (New York, 1804), pp. 33-34; *New York Journal,* May 1, 1799; *American Citizen,* April 28, 1800.

[4] Channing, E., *A History of the United States* (New York, 1920), IV, 114-15.

[5] Hammond, B., "Long and Short Term Credit in Early American Banking", *Quarterly Journal of Economics,* XLIX, 82.

[6] *Cf.* Myers, *op. cit.,* pp. 15-16; Schachner, *op. cit.,* p. 175.

[7] Schachner, *op. cit.,* pp. 123-26.

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tent. But a new chartered bank was virtually unattainable at the time, especially if it was promoted by Republicans. Business corporations were less than a decade old in New York, and up to 1799 only a dozen charters had been granted, each by a special act of the state legislature which weighed the public necessity and benefit of the proposed incorporation.[8] It was Republican dogma to be wary of an increase in business corporations which symbolized, as they had for a long time in England, monopoly power, speculative profit seeking, and moneyed influence.[9] No type of corporation was more suspect than a bank. While the fear of banks fed upon misconceptions and ignorance of the nature of banking functions and an exaggeration of their economic influence, the antagonism was also firmly rooted in the concern of an agricultural people, ineligible for a bank's short-term loans, over the possible diversion of loan capital, by way of banks, from farmers to merchants at the seaport centers.[10] As a matter of principle, some men argued that banks, which were seen chiefly as note-issuing agencies, were a usurpation of governmental powers. The view gained strength, in theory if not in practice, when the Federal Constitution banned the issue of bills of credit by the states.[11]

When the first commercial bank was organized in New York City in 1784 and sought incorporation, its directors, among them Alexander Hamilton, found themselves contending not only against agrarian fear of all corporations in new fields, but also against upstate, debtor clamors for a state

8 Davis, J. S., *Essays in the Earlier History of American Corporations* (Cambridge, 1917), II, 22-23.

9 Redford, A., *The Economic History of England* (London, 1934), pp. 166-67.

10 Miller, H. E., *Banking Theories in the United States Before 1860* (Cambridge, 1927), pp. 3-4, 11-14; Mints, L. W., *A History of Banking Theory in Great Britain and the United States* (Chicago, 1945), pp. 64-67; Redlich, F., *The Molding of American Banking: Men and Ideas, 1781-1840* (New York, 1951), p. 9; Sparks, E. S., *History and Theory of Agricultural Credit in the United States* (New York, 1932), p. 8.

11 As late as 1829, Governor Martin Van Buren considered seriously the possibility of establishing a state bank to replace the numerous private banks. (*New York, Messages from the Governors* [Albany, 1909], III, 239 *et seq.*) For earlier statements of the agrarian position on private vs. state banks, see John Taylor of Virginia, quoted in Justinian (Thomas Law), *Remarks on the Report of the Secretary of Treasury* (Wilmington, 1820), p. 38, and *Path to Riches*, an influential 1792 pamphlet written by the Attorney-General of Massachusetts, James Sullivan.

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issue of bills of credit, as well as a rival proposal for a private land bank. The idea of a land bank was crushed quickly, as had been the land bank rival to the Bank of England a century earlier.[12] But the paper-money advocates secured an issue of bills of credit in 1786, while the Bank of New York suspended its efforts to secure a charter after two rejections.[13] When the legislature finally granted the Bank of New York a charter in 1791, it was moved more by a states'-rights desire to offset the influence of the newly created Bank of the United States than by a breach in the opposition to chartered banks.[14] Nor did the creation of one bank ease the way for successors. The upshot of a speculative bank mania in 1792 was the failure of any of several projected banks to secure a charter, the passage of an act to use part of the state treasury's funds for loans to citizen-farmers, and a law, reminiscent of that which followed the South Sea Bubble in England, "to prevent the pernicious practice of stock-jobbing."[15] Since that time, only two banks had won charters, both outside New York City.

Burr had every reason to believe, as did Judge Hammond, a participant in and the historian of early New York politics, that a new bank proposal would fare poorly, "inasmuch as a majority of both houses of the legislature were federal; and even the republican part of the members were so jealous of the corrupt influence of moneyed institutions that few of them would consent to charter a bank in a city which already was furnished with one institution."[16] In the Republican view, more banks meant a multiplication of insidious monop-

12 Clapham, J., *A Concise Economic History of Britain* (Cambridge, 1951), p. 273; Spaulding, E. W., *New York in the Critical Period* (New York, 1932), pp. 144, 152. The New York situation was closely paralleled in Pennsylvania at this time; though, in the latter state, the chief issue was the revocation of the charter of the Bank of North America.

13 Spaulding, *op. cit.*, pp. 148-49; Domett, H. W., *A History of the Bank of New York* (New York, 1884), pp. 4-7, 29-31.

14 Kent, W., *Memoirs and Letters of James Kent* (Boston, 1898), pp. 41-42; James Watson to Jeremiah Wadsworth, July 16, 1790, Wadsworth Correspondence, cited by R. A. East, *Business Enterprise in the American Revolutionary Era* (New York, 1938), p. 297n.

15 Davis, *op. cit.*, II, 90; Shannon, H. A., "The Coming of General Limited Liability", *Economic History*, vol. II.

16 Hammond, J. D., *op. cit.*, I, 324-25.

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olies. Federalists, on the other hand, feared that more than one bank in a city would be ruinous to the business of each through unbridled competition and insufficient specie holdings.

Nor could Burr's sponsorship of a bank be calculated to enhance his political standing among Republicans of the rank and file who were not sophisticated enough to see that opposition to banks in general might be pursued by means of the creation of one's own captive bank. Burr also lacked the financial stature and commercial interests expected of a bank director, a post he must occupy if he were to remain in political command.

Even if these objections to a banking corporation had not been weighty, Burr would have had to reckon with the resistance of the entrenched banks. The Bank of New York enjoyed a regional monopoly, sanctioned by practice if not by law and limited only by a division of business with the branch of the Bank of the United States. A recent, intimate association with the finances of the state government gave added status to the Bank of New York, whose directors were in a position to influence the Federalist members of the legislature.[17] Burr might have avoided the conflict with the established banks by creating a private bank which required no act of the legislature, since banking was then open to all as a common-law occupation. Yet, a private bank offered no great advantage over a chartered institution and it had several added drawbacks of its own.

Barred from a straightforward approach to the establishment of a Republican financial institution, Burr had resort to more devious means. Would he have made a water company his gambit if his brother-in-law, Dr. Joseph Browne, had not been independently interested in New York City's water supply?[18] The answer is speculative, but, beyond a doubt, a water company was an excellent choice for Burr's purpose. No one could question the deep need of the burgeoning town for a vastly increased flow of water not only for

[17] Davis, *op. cit.*, II, 46, 81-90; Hammond, B., "Free Banks and Corporations", *Journal of Political Economy*, XLIV, 186; Redlich, F., "Bank Administration, 1780-1914", *Journal of Economic History*, XII, 443.

[18] Dr. Browne had submitted a water proposal to New York City in 1797. Blake, N. M., *Water for the Cities* (Syracuse, 1956), p. 45.

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drinking and washing, but for fire-fighting and street sanitation. Some theories of the origin of yellow fever epidemics, one of which scourged New York in the summer of 1798, stressed the impure drinking water and the decaying wastes in the unwashed streets.[19] A water company would be welcomed by the citizens and should encounter no difficulties in obtaining a charter from the legislature.

Of course, a pure and simple water company would hardly provide the Republicans with a source of financial power; more likely, it would be constantly in debt and would have to look to the state government for loans, grants or stock subscriptions, or the right to raise money by a public lottery, as most privately operated public utilities were doing. Burr, displaying great legal acumen and an ability to surmount the prejudices and preconceptions about corporations under which most of his contemporaries labored, secretly devised an added dimension to the water company which he proceeded to promote as though it were nothing but a public service.[20]

I

The opening shot in Burr's campaign was fired by his brother-in-law, Dr. Joseph Browne, a physician with engineering interests, who submitted an elaborate Memoir on the water situation to the Common Council of the City of New York in July 1798. After expounding its author's theory of the cause of yellow fever, the need for a plentiful water supply, the inadequacy of water sources on Manhattan, and a method of drawing water from the Bronx River, the Memoir proposed that a private water corporation, capitalized at $200,000, be chartered by the legislature and authorized to implement Dr. Browne's recommendations.[21] Burr's name appeared nowhere in the document, but subsequent events suggest that he had assisted in its concoction.

19 *Ibid.*, ch. i, pp. 44-45.

20 Davis, M. L., *Memoirs of Aaron Burr* (New York, 1837), I, 413.

21 *Proceedings of the Corporation of New York to Supply the City with Pure and Wholesome Water with A Memoir of Joseph Browne, M.D.* (New York, 1799). Dr. Browne anticipated that the stockholders would receive a return of 13 per cent on their investment from the compulsory and voluntary water charges to be imposed by the company. Such optimism was common to promoters of ventures likely to be barely profitable, or debt-ridden.

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A special committee of the Common Council reviewed all of the water supply proposals which had been submitted to the city and made its report toward the end of 1798, while the memory of the past summer's devastating epidemic was still fresh and rumors circulated that New York's rival, Philadelphia, was to embark on a municipal water project. Although much of Dr. Browne's technical plan was approved, the committee rejected the idea that a private company should be entrusted with the city's water supply, since private enterprise would not be interested in the project "unless upon the Prospect of considerable Gain; and that such Gain must be acquired at the Expence of the City." [22] Instead, the committee proposed city-owned water works, and the Common Council, accepting this report, voted to seek from the state legislature the necessary legal authority and financial support.[23]

Whatever chagrin Burr felt at this turn of events was allayed by the fact that the Common Council's petition to the legislature, in the normal routine, would be referred to the committee of the thirteen assemblymen who represented the city and county of New York, among whom Burr was a leader.[24] The vigor with which Burr sought to discredit the Common Council's plan for municipal water works and his bluff circumvention of his opponents by the interception of letters or the omission of members from meetings, as was later charged in Federalist campaign material, gave evidence of his prior commitment to the establishment of a private water company.[25] But some of the representatives from New York City were reluctant to override the expressed wishes of the Council; this was particularly true of the three assemblymen who were simultaneously members of the Common Council, and who had themselves voted to ask for legislative authority to create a city-owned water supply.[26] Some doubts

[22] *Minutes of the Common Council of the City of New York, 1783-1831* (New York, 1918), pp. 486-87.

[23] *Ibid.*, pp. 486-87, 490.

[24] Twelve of the thirteen were said to be Republicans. M. L. Davis to Albert Gallatin, June 2, 1798, Gallatin Papers, New York Historical Society.

[25] *New York Commercial Advertiser*, May 1, 1799, "The American".

[26] Two of them, Philip Arcularius and Richard Furman, had attended the Council meeting, while the third, Thomas Storm, had been absent. (*Minutes*

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were also expressed that the citizens preferred a private company to public enterprise, as Burr claimed.

Meanwhile, another petition from the Common Council concerning the related subject of drainage and sewage projects for the city aroused criticism from Burr, who felt that the Council was inadequate as an administrative agency for a continuing program.[27] Faced with the two proposed bills in dispute, the committee agreed that Burr should return to New York to sound out public opinion and the views of the Common Council on the alternative of a private company; the Assembly voted Burr a ten-days' leave on February 16, 1799.[28]

Burr's New York visit showed him to be a genius at organization and persuasion. His ulterior motives being confided to only a few chosen political associates, Burr's three-pronged strategy featured the creation of a committee of highly placed, representative citizens to approach the Common Council in favor of a private company; the organization of the Manhattan Company as a water-supply corporation, with an outstandingly successful and respectable board of directors, predominantly Republican in sentiment, buttressed by a list of stockholders drawn from the wealth and great names of the city but balanced to permit a voting majority for the Republican side; and, finally, the presentation to the legislature of numerous memorials and petitions advocating the incorporation of a private water company and bearing the signatures of prominent citizens in both political parties.

Burr's committee of six men to approach the Common Council was a masterpiece of political influence, which was little diminished by the claim that the men appeared as pri-

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of the Common Council, II, 486; New York Civil List, 1777-1855.) Elias Nexsen was also mentioned as opposing Burr's plan in the Assembly Committee. *New York Gazette and General Advertiser,* May 1, 1799, "A Citizen"; *New York Commercial Advertiser,* May 23, 1799, "Socrates".

[27] *Minutes of the Common Council,* II, 494-99, 500-8.

[28] *Assembly Journal* (New York), 1799, p. 123; Burr had known as early as February 11 that he was to leave the Assembly session and return to New York City. *Correspondence of Aaron Burr and His Daughter Theodosia,* edited by M. Van Doren (New York, 1929), pp. 49-50; *New York Commercial Advertiser,* May 1, 1799, "The American".

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vate individuals.[29] The three Federalists were Alexander Hamilton, the outstanding political leader in the state if not the nation and now a Major-General in the Army, John Murray, president of the Chamber of Commerce, and Gulian Verplanck, president of the Bank of New York.[30] In addition to Burr, the only member of the legislature among the six, the other Republicans were John Broome, an eminent merchant, president of an insurance corporation, war hero, framer of the state constitution, former president of the Chamber of Commerce and holder of many municipal offices, and Peter H. Wendover, president of the Mechanics Society and soon to be Sachem of Tammany Hall.[31]

How did Aaron Burr convince leaders of the political opposition that they should appeal to a Federalist Common Council to reverse itself? As a personal ambassador to the Federalist camp, he was unmatched. His family background, education, military service, legal talents, and social grace opened the doors of Federalists of highest rank; Hamilton and Burr, though type-cast in history as the archenemies shortly doomed to fatal combat, were socially on good terms and served jointly in legal cases at this time and later.[32] Burr's moderate position on political issues and his rejection of party "regularity", on occasion, led some Federalists, not under Hamilton's influence, to seek him out as a candidate for their own party, and Burr was not known for his shocked rejection of such overtures.[33] His political tractability was not an asset in dealing with Hamilton and his close associates, however. Hamilton profoundly distrusted Burr's po-

29 Hamilton to R. Varick, February 26, 1799, *Minutes of the Common Council*, II, 517.

30 *Ibid.*, II, 514. Verplanck is incorrectly listed as president of the branch of the Bank of the United States.

31 Alexander, DeA. S., *A Political History of the State of New York* (New York, 1906), I, 180; Scoville, J. (Walter Barrett pseud.), *The Old Merchants of New York* (New York, 1885), III, 97, IV, 208-15; New York Tammany Society, Membership List, List of Officers (Working Copy), Kilroe Collection, Columbia University, p. 211.

32 Jenkinson, I., *Aaron Burr* (Cleveland, 1902), pp. 24-25, 74-77; Parton, J., *The Life and Times of Aaron Burr* (Boston, 1876), I, 237; Hamilton, A. M., *Intimate Life of Alexander Hamilton* (New York, 1910), pp. 378-79; Hamilton Papers, Library of Congress, Legal papers.

33 Schachner, *Aaron Burr*, pp. 95, 103-5, 108, 115.

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litical beliefs and tactics, and he saw Burr's amiability, attentiveness to others, tact, and lack of rancor, which so disarmed some of his opponents, as a façade behind which lurked a cunning schemer, unprincipled and inordinately ambitious.[34] The water issue must have appeared to Hamilton as a public welfare measure, devoid of political implications and partisan advantage, in order to have overcome his reluctance to be associated with Burr in anything even vaguely tinged with politics.

A personal factor may have influenced Hamilton's decision to help Burr form a private water company. Hamilton's wealthy English brother-in-law, John B. Church, upon returning to America in 1797 as a permanent resident, had become active in the business and financial world. In the past, Hamilton had served as Church's attorney, business agent and adviser, and had continued in these multiple rôles even during his term as Secretary of the Treasury when Hamilton's purchases of United States securities on his relative's behalf had raised questions of financial security and propriety.[35] Now Church had become a director of Burr's new Manhattan Company. He was not quite as public-spirited and respected as the other men selected for directorships, and it is a fair assumption that Church's appointment was arranged by Hamilton. Perhaps Burr had offered the position to Hamilton directly and had agreed to Church as a substitute. Or Church's selection may have been a condition of Hamilton's coöperation. It is even possible that Hamilton's acceptance of a place on Burr's committee of six, a rôle which Hamilton carefully characterized as that of a private citizen, was largely a business service for Church. In any case, it may be questioned whether Hamilton's participation was entirely governed by disinterested public spirit—as Burr's actions clearly were not.

Burr's greatest strength in his campaign to induce Federalists to reject the action of a Common Council dominated

[34] *Ibid.*, pp. 116-19.

[35] Schachner, N., *Alexander Hamilton* (New York, 1946), pp. 342-43, 347; Mitchell, B., *Alexander Hamilton* (New York, 1957), I, 604, n.28; *New York Directory, 1799-1800;* Hamilton Papers, First Series, XXX, 213, 215; Second Series, IX.

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by eminent Federalists was the nature of the issue itself. Whether government or private enterprise should provide the "social overhead capital" of economic development—the roads, bridges, canals, banks, schools and public utilities essential to the settlement of the new lands and the added prosperity of older sections—this was the subject of heated debate throughout the state. Private enterprise, as it was then understood, included "mixed corporations" in which governments owned stock and were represented on the directorates, as well as coöperative associations of citizens which today might be regarded as quasi-public or semi-business in character.[36] If these forms be classed as compromise arrangements, it would have bothered few of the men who promoted the early economic development of New York. They had a pragmatic outlook which scorned theoretical niceties.

When the Common Council proposed municipal water works, it was suggesting a novelty, for, thus far, most of the new nation's public services, and all of New York State's, had been provided by private companies, some of which had received substantial financial aid from governments.[37] The Council did not state its preference for public ownership in very strong terms; the report of the Council's Water Committee acknowledged that each method of operation "is attended with Difficulties".[38] It would have come without shock to the Council members to learn that many citizens, particularly Federalists, believed that government enterprise of any kind was usually more costly, dilatory, corrupt and wasteful than private business.[39] Upstate, the disappointment with the state's road construction program was about to spawn a turnpike craze, based on private companies.

[36] *Cf.* Goodrich, C., "Public Spirit and American Improvements", *Proceedings of the American Philosophical Society,* XCII, 305-9.

[37] Blake, *Water for the Cities,* p. 63; Krout, J. A., and Fox, D. R., *The Completion of Independence* (New York, 1944), p. 23; *New York Commercial Advertiser,* May 11, 1799, citing *The True American.* The legislature authorized Albany to set up municipal water works in 1796, but nothing had come of it. Davis, J. S., *op. cit.,* II, 248.

[38] *Minutes of the Common Council,* II, 486-87.

[39] Adam Smith had made the classic case against governments as spendthrifts; he also gave guarded approval to joint-stock companies, without exclusive privileges, for such function as "bringing water for the supply of a great city". *The Wealth of Nations,* Modern Library ed. (New York, 1937), pp. 329, 713.

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The particular circumstances which prevailed in the New York City government were used with good effect by Burr to buttress general prejudices. Even more than the state government, the New York Common Council was a part-time body, politically oriented and subject to a high rate of turnover in personnel, due to annual elections for all posts and the attractions of other offices. For several years Republicans had expressed dissatisfaction with the quality of the Federalist administration of the city and with the record of the Council in disbursing public funds.[40] The ability of the city government to handle the relatively huge sums involved in a municipal water-supply system might well be doubted in view of the small scale of previous expenditures and the weak administrative and accounting methods in force.[41] The temptation, even to honest men, to mingle public funds with private was potent; the disbursing and accounting methods of all levels of government encouraged it, and the shortage of means of payment in the pioneer society forced essentially honest men into what they hoped were temporary private uses of government funds.[42] Hence there arose a preference for men in government whose wealth and solvency would raise them above the common frailty and would protect the treasury.

There were other handicaps to government enterprise, whether recognized explicitly or not, which account for part of the early prejudice against it, even in fields which today are its exclusive province. If a government were to operate a public utility on a continuing basis, it would need a corps

40 Pomerantz, S., *New York: An American City* (New York, 1938), p. 120; *New York Gazette and General Advertiser*, May 1, 1799.

41 Pomerantz, *op. cit.*, pp. 266-71. Total city expenditures about this time were around $250,000 a fiscal year (*ibid.*, p. 256); Sowers, D. C., *The Financial History of New York State* (New York, 1914), p. 42; Durand, E. D., *The Finances of New York City* (New York, 1898), pp. 28-30.

42 One such case that escaped public notice because of Alexander Hamilton's intervention concerned the highly respected Josiah Ogden Hoffman, while he was New York's Attorney General. Hamilton persuaded Governor John Jay to give Hofmann time to straighten out his financial affairs. "'Tis not merely temporary embarrassment that will justify the removal of an officer of this description", wrote Hamilton to Jay. "Something permanent and unequivocally irretrievable ought to appear as the basis of the procedure." Hamilton to Jay, November 8, 1798; Jay to Hamilton, November 10, 1798, John Jay Papers, Columbia University.

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of trained, full-time personnel, selected on the basis of merit rather than political connections, hired with some security of tenure, and paid adequately to discourage side-line occupations, acceptance of bribes or other financial abuses.[43] But the post-Revolutionary emphasis on a weak executive and a strong legislature, as The Will of the People Incarnate, discouraged the creation of administrative bodies accountable to the executive. Government service, apart from the few elective positions, was appointive on a political basis, with no semblance of a civil service. To pay low salaries to officials was a matter of principle and economy.[44] Where an appointment was temporary and part-time, as in the case of a commissioner of roads, no compensation was offered. For contrast, there were some sought-after, appointive positions which carried only nominal salaries, but permitted the jobholder to retain for his own personal use all the fees paid by citizens when they were making applications or obtaining licenses or permits.[45]

However difficult the situation was at the state level, it was worse at the local level, and it was particularly conspicuous when the project was within the means of the citizens in their private capacities. In New York City, it was the contrast between the collective wealth of the citizens and the dependent financial condition of the city which made the most telling point against municipal water works. Under the city's charter, a law had to be passed in Albany before a tax could

[43] The state was struggling with this issue twenty years later when the Erie Canal was undertaken. Joseph Ellicott, recommending to De Witt Clinton that full-time superintendents of construction be appointed, a novelty at the time, suggested that their salaries be fixed between $2,000 and $3,000 a year, a sum he thought sufficient to keep them from looking for other sources of employment, but not so much as to make the public think they were aggrandizing themselves at public expense. J. Ellicott to De Witt Clinton, April 2, 1818, Clinton Papers, Columbia University, VIII, 27.

[44] Commenting sarcastically on the salary cuts dealt out by the legislature, in 1800, Robert Troup wrote of the comptroller, who was reduced from $3,000 a year to $2,500, that it was feared he would "cut a dash & set an example of extravagance that would be injurious to the morals of the community." Troup to Rufus King, December 12, 1799, Rufus King Papers, XLVII, New York Historical Society.

[45] As late as 1836, Justice Sutherland of the New York Supreme Court resigned his seat on the bench to accept the clerkship of his own court, a post which provided considerably more in fees than the judge's salary. Hammond, J. D., *The History of Political Parties in the State of New York*, II, 455.

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be levied or a loan raised. Even if taxes were not then regarded as worse than death, rather than of comparable inevitability, it was doubtful that the state would authorize a sufficiently large new tax, since its own tax receipts from New York City would be affected.[46] However, the Common Council sought another means of financing the proposed water works. Without making any estimate of the total cost of the project, the Council asked that the duties on sales at auction in New York City, which normally formed a good part of the state's revenues, be turned over to the city for a number of years.[47] If the total cost of the water works were to reach $1 million, as Burr and his committee held, the burden on the state treasury would be excessive, particularly in view of the normal reluctance of upstate representatives to provide large appropriations for New York City, the new allotments for the encouragement of schools, and abnormal state expenditures on the fortification of New York harbor against an anticipated French attack. That year, for the first time, the state had imposed a general property tax.[48] Hamilton, as a Major-General on special duty, might well have opposed any large-scale financial commitment by the state to municipal water works at this time.

Thus, without going into the virtues or deficiencies of private enterprise, the Federalists approached by Burr could have held a good case against municipal enterprise; and, on grounds of public welfare or private interest, they were ready to support him before the Common Council.[49] The committee of six, headed by Burr, made its first public appearance at the office of Mayor Richard Varick on February 22, 1799. After talking with the group, the Mayor asked that its views be presented in writing, and an unsigned memorandum was delivered to him. When the Mayor reported

46 The city had for years been permitted to collect less in taxes than it desired. Pomerantz, *op. cit.*, p. 362.

47 *Minutes of the Common Council*, II, 486-87. A considerable portion of the foreign imports passing through New York harbor were sold by auctioneers, licensed and limited in number. Their profitable business was taxed by the state, in proportion to the value of the goods sold.

48 Sowers, *op. cit.*, p. 114.

49 With much the same background, Philadelphians decided on a municipal water supply. For specific differences, see Blake, *op. cit.*, ch. 5.

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on his visitors at the next Council meeting, the members asked that the memorandum be signed and the objections to the Council's plan outlined.[50] Burr's next triumph was the bringing forward of the man most likely to persuade the Council, Alexander Hamilton, as the author of the memorandum, which was a digest of the entire committee's views. "I have no objection", wrote Hamilton to Varick on February 26, "to authenticate them by my Signature—and I freely add that the changes in the Plan . . . which they suggest have the full concurrence of my Opinion." [51]

The memorandum stressed the financial obstacle. A proper water supply would cost $1 million, Hamilton wrote, but the city's proposed financing, even if granted, would furnish only a small part of the required sum. It was

> doubtful whether the Legislature, diminished as are some of the resources of revenue, on which it has for some time relied, will be willing to grant the fund arising from Auctions, for the *profit* of the Corporation, for such a term as will make it go far towards accomplishing the object . . . . The Amount of the revenue to result from the supply of the Water must be for some time uncertain and . . . extensive loans on this basis ought not to be counted upon. To raise what may be wanted by taxes to carry on the enterprise with vigour might be found so burthensome on the Citizens as to occasion the operation to languish.[52]

Hamilton's figure of $1 million was much higher than Dr. Browne's 1798 estimate of $200,000 or the $220,000 spent in 1799-1800 on the Philadelphia municipal water works.[53] Had the estimated cost of the water supply been placed at $400,000 or slightly more, the financial argument against a municipal project would have been difficult to sustain. However, Hamilton did not depend entirely on Burr for his estimates, for he had talked with William Weston, the English canal engineer, who had been retained by the Common Council as a water consultant, and who had recently come to

[50] *Minutes of the Common Council*, II, 514.

[51] *Ibid.*, p. 517. [52] *Ibid.*, pp. 517-18.

[53] *Proceedings of the Corporation of New York to Supply the City with Pure and Wholesome Water with A Memoir of Joseph Browne, M.D.*; Blake, *op. cit.*, p. 34.

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Hamilton with a note of introduction from the latter's father-in-law, General Philip Schuyler.[54]

Hamilton outlined a substitute proposal for a private water company whose most significant feature was the rôle assigned to the Common Council. Declaring that the city should own one third of the stock in the private company, Hamilton proposed that the purchase of this stock should be financed by the grant to the city for a number of years of the duties arising from the sales at auction. This provision could not have satisfied Burr, since it would have placed the city in a dominant position in the company, raising the danger of a strong Federalist bloc of votes to oppose his wishes. It also appeared to have solved the financial problems of a private water company, destroying Burr's opportunity to create a bank.

Next, Hamilton stressed to the Council that it had the important duty of preserving the city from pestilential disease. The stagnant pools of water dotting the city should be drained, filled or submerged, and underground drains and sewers should be installed under Council sponsorship, but with seven appointed commissioners rather than the Council itself as the administrative body for the first two years.[55] This distrust of the Council's administrative capacity repeated Burr's earlier objections, and appeared to be unrelated to the main project of a private water company.

Hamilton concluded his memorandum with a suggestion: "It is believed, that the main object will be promoted, if the Corporation [of New York City] will signify to the Legislature . . . that alterations in their plan corresponding with the changes here suggested, if more agreeable to the Legislature, will not be unacceptable to them." [56]

The Federalist Council, weighing Hamilton's suggestions, could not fail to be impressed either with his eminence or with the doubts he had cast on the financial capacity of the city. They were sensitive, also, lest it be thought that the municipal water works had been sought in order to give the

[54] Schuyler to Hamilton, January 3, 1799, Schuyler Papers, Misc., New York Historical Society.

[55] *Minutes of the Common Council,* II, 517-20.

[56] *Ibid.*

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Council influence or patronage, and they pointed out that they would have been assuming more work for no additional pay.[57] Perhaps, too, Hamilton's recommendation that the city recorder would be an *ex officio* director of the private company allayed the Council's earlier fears of inadequate service, profit-seeking and monopolistic control.

Without devoting more than a single session to the subject, the Council complied with Hamilton's request on February 28, 1799, resolving:

> That this Board is truly anxious that the Measures . . . which may promote the health and welfare of the City, be pursued in the way that may be most likely to secure these important Ends; And altho' the members of this Board have not been unwilling to subject themselves to great trouble and responsibility from a sense of Duty, Yet having no private motives to wish for any peculiar Agency in this Business, they will be perfectly satisfied if the objects in View are pursued in any Way that the Legislature may think proper by which their fellow Citizens may be benefitted . . . and the Charter rights of the City remain inviolate.[58]

Burr could breathe a sigh of relief. The first obstacle to his scheme had been removed. To Hamilton he owed this victory, for it was Hamilton who effectively neutralized the Federalist Common Council, the one body whose opposition Burr could not have ignored and whose wishes the legislature would not easily have overridden.

II

The good fortune Burr had in recruiting his committee was duplicated in the group of directors he assembled for the Manhattan Company. A total of twelve directors, rather than the seven Hamilton had proposed, permitted Burr to give representation to the Federalists and to the three distinct factions within the Republican party—the Clintons, the Livingstons and the Burrites. For the Federalists there were three wealthy and prominent men: John B. Church, Hamilton's brother-in-law; John Watts, formerly speaker of the State Assembly, recorder of New York City, and director of the Bank of the United States, and active in civic and chari-

[57] *Ibid.*, p. 520. [58] *Ibid.*

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table causes; and John B. Coles, a flour merchant who was said to have been connected with almost every "benevolent society or moneyed corporation." [59] Coles was a particularly valuable acquisition, for, as an alderman, he had served on the committee of the Common Council which drew up the report against a private water company.[60]

The Republican contingent contained men of such wealth and influence that their Republicanism was noted only when it became vital to tally the political affiliations of the directors. No less than six of the nine Republican directors were founders of or original shareholders in the Tontine Coffee House, in whose halls only the cream of the merchant class was welcome.[61] Daniel Ludlow, William Edgar, William Laight and Paschal N. Smith ranked high among the affluent and active merchants of the day and they were directors of other corporations as well. Samuel Osgood, a man of property and position in the community, had an impressive war and public service record which culminated in his term as George Washington's Postmaster-General. As De Witt Clinton's stepfather-in-law, Osgood entered the directorate of the Manhattan Company as a Clinton man. John Broome, of Burr's original committee of six, had an illustrious past (and future) in New York State, which named a county for him in his lifetime.[62]

Representing the Livingstons and the landed interest, a group which had hitherto found few places in the city's business corporations and had been defeated in its attempts to establish banks in 1784 and 1792, were the noted lawyer, Brockholst Livingston, a cousin of Chancellor Robert R. Livingston, the head of the clan, and John Stevens, landed squire of Hoboken, brother-in-law of the chancellor, partner in his early steamboat ventures, and transportation entre-

59 Scoville, *op. cit.*, II, 41-45, 68-71, V, 44; Fox, D. R., *The Decline of Aristocracy in the Politics of New York* (New York, 1919), pp. 18, 108; *N. Y. Genealogical and Biographical Record*, IV, 174.

60 *Minutes of the Common Council*, II, 486-87.

61 Scoville, *op. cit.*, IV, 218-25.

62 *Ibid.*, I, 161, II, 63, 249-50, III, 164, IV, 226-36, 107-9, 111, 112-14, 208-15, V, 71; Appleton's *Cyclopaedia of American Biography* (New York, 1888), I, 390; *Dictionary of American Biography*, D. Malone, ed. (New York, 1934), XI, 490, XIV, 81-82; *New York Directory, 1799-1800.*

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preneur extraordinary.[63] Aaron Burr was the ninth Republican director, the only member of the legislature among the twelve, and the least respectable financially.

The board of directors enlisted by Burr would instill great confidence in the private water company among members of the legislature and would mask the company's political potentialities. The directors, in turn, were moved by more than a desire to serve their fellow citizens; some of the Republicans knew that they were to be directors of more than a public utility; and any directorship in a business corporation not only carried great prestige, but was attractive and valuable to a merchant engaged in trade on his own account, since it offered access to credit and business opportunities.

Besides selecting its first directors, Burr organized the Manhattan Company to the extent of securing a large number of subscribers to its stock, without, however, requiring any payment in advance of incorporation, or binding the subscribers afterwards. Attracted by the distinguished sponsorship of the company, its worthy objectives, and the possibilities of good dividends or speculative profits, many outstanding Federalists signed their names or those of their business partnerships, reserving shares for themselves. Such a subscriber was Nicholas Low, close friend of Hamilton, business agent for Rufus King, and an important merchant and insurance company president, who signed up for 100 shares, a large number in terms of his other business commitments, " on Condition of my approving the Charter." [64]

The pattern of stock subscriptions by Republicans revealed a definitely political allocation of power. The chief stockholders, whose influence was almost as great as that of the directors, represented the three Republican factions: De Witt Clinton (1,000 shares), John Swartwout, Burr's loyal lieutenant (2,000 shares), and Chancellor Robert R. Livingston (2,000 shares). These were the largest individual subscriptions, but many other well-known Republicans were represented by heavy ones. Unlike those of the Federalist

[63] *Dictionary of American Biography*, XI, 312-13, XVII, 614-18; Alexander, *A Political History of the State of New York*, I, 6, 79, 90; Gregg, D., " John Stevens ", in Miller, W., ed., *Men in Business* (Cambridge, 1952), pp. 120-52.

[64] Low to King, April 17, 1799, King Papers, XXXVII.

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subscribers, their names were unfamiliar on the rosters of corporate stockholders. Still newer to the investment world were the rank-and-file Republicans who signed up for two or five shares each.[65]

As the final achievement of his whirlwind trip, Burr obtained petitions to the legislature, one of which was drafted by Hamilton, showing public support for a private company.[66] Armed with the signatures of prominent men of both parties, the resolution passed by the Common Council, and an organized water company, impressive on paper, Burr returned confidently to Albany. A few weeks later, Thomas Tillotson, a member of the legislature, wrote to his brother-in-law, the chancellor: "There will be no opposition to any reasonable proposition for conducting the water into New York." [67]

Yet no bill to charter a water company was introduced, even when adjournment was but a few days off. Enough unfinished business remained in the Assembly to justify an extension of the session from March 28 through April 1, and it was this that made it possible for Burr's bill to get a hearing that spring.[68] Why had he waited so long? Granted that a long and complicated bill had to be drafted and that it would be desirable to catch the legislature in the haste and confusion of the closing days, surely it was risky to hold back the bill so long. The explanation seems to lie in Burr's desire to see another issue settled first.

The State Senate sent to the Assembly, on March 9, a bill the Senate had passed dealing with New York City's sewage and drainage problems. The legislative draft followed the original request of the Common Council and did not reflect the criticisms Hamilton had presented to the Council.[69] In

65 *A Collection of Rare Autographs Commemorating the 120th Anniversary of the Bank of the Manhattan Company, 1799-1919* (New York, 1919).

66 Hamilton Papers, First Series, LXXXIV, 226. This undated draft memorial has been incorrectly filed with 1802 papers and has been so dated in the J. C. Hamilton edition of Hamilton's *Works* (New York, 1850-51), VII, 837-38.

67 Tillotson to Livingston, March 15, 1799, Livingston Papers, New York Historical Society.

68 *Assembly Journal,* 1799, pp. 250-51.

69 *Senate Journal,* 1799, pp. 47, 68, 71; *Minutes of the Common Council,* II, 517-20.

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the Assembly, this bill was referred to the committee which was drawing up the Manhattan Company charter under Burr's leadership. Burr's committee amended the sewage and drainage bill in several respects. The chief amendment reported by Burr to the Assembly on March 14 would have granted to New York City the duties arising from auctions. On the credit of these funds, the city would be empowered to borrow not more than $100,000 to expedite the sewage and drainage projects and to support the foreign poor of the city.[70] Here was Burr's way of disassociating the auction duties from the private water company, a link which Hamilton had originally created. To keep the city from owning as much as one third of the water company and to make a case for special financial powers for the Manhattan Company, it was vital that these auction duties should not be available. If the legislature voted them to the city for its health program, the city would be pleased and the funds could not be applied either to municipal water works or a private water company. If, on the other hand, the legislature refused New York City these funds for sewage and drainage purposes, then Burr could maintain, as he later did, that the legislature could not be counted on for financial support of a New York City water company, whether it was municipal or private.[71]

The only flaw in this strategy was its consumption of time. After the Assembly passed an amended bill on March 15, in which it accepted Burr's recommendations, the measure was returned to the Senate where, ten days later, the Assembly's first four amendments, including the one dealing with auction duties, were rejected after much discussion.[72] Yielding to the upstate disinclination to give New York City any special funds not already allocated, the Assembly on March 26 retreated from its own amendments, and the health bill was enacted without any financial provision for its execution, save

[70] *Assembly Journal,* 1799, pp. 190, 193, 210. In 1798, the legislature had voted to grant the proceeds of a special tax on auction sales to New York City to aid in the care of the foreign poor. *New York Laws,* chapter 89, 1798.

[71] *New York Commercial Advertiser,* May 1, 1799, "The American".

[72] *Senate Journal,* 1799, pp. 94, 101. The rejection of the amendment to grant the auction duties was on sectional lines, 26-11, with six votes not to reject coming from senators from the Southern District, three of them Federalists.

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that the owners of property might be assessed for drainage, filling, etc., on their own property.[73]

As soon as the threat of the auction duties was neutralized, and the Senate had returned to the Assembly the approved bill on health measures for New York City, James Fairlie rose in the Assembly to report that the requests of memorialists for a private water company had been approved by the committee of assemblymen from the city and county of New York.[74] The bill introduced by Fairlie differed very little from the final act to charter the Manhattan Company, signed a week later by the Governor.[75] It spelled out the powers of the Manhattan Company in its water operations, as Hamilton's memorandum had not done. Closely resembling the powers granted to the two incorporated canal companies in New York with regard to the right of eminent domain, the Manhattan Company charter was as favorable as any that had ever been voted in New York. It included the right (interpreted as exclusive) to bring in water from a wide area surrounding the city, the company's freedom to set its own rates, and perpetual life for the corporation. Unlike the water companies of other states, the Manhattan Company was not required to furnish free water for fighting fires or to put the streets back in order after pipes were laid.[76] The sole limitation on the company's power was a proviso that the charter would be forfeited if the company did not, within ten years, " furnish and continue a supply of pure and wholesome water sufficient for the use of all such citizens . . . as shall agree to take it on the terms to be demanded by the said company."

The bill before the legislature was different in several respects from the plan originally submitted to the Common Council by Hamilton. Burr had increased the company's capital to $2 million, enlarged the board of directors, reduced the number and percentage of shares to be allocated to the city, and, most important, eliminated the duties on auction sales as a source of financing and substituted an entirely new

[73] All of the assemblymen present from New York City and County voted against the majority and in favor of granting the auction funds to the city. *Assembly Journal,* 1799, pp. 256, 257; *New York Laws,* ch. 70, 1799.

[74] *Assembly Journal,* 1799, p. 261.

[75] *New York Laws,* ch. 84, 1799.

[76] Blake, *op. cit.,* p. 51.

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concept. Buried at the end of the charter was a clause permitting the company to use its "surplus capital", which was not further defined, "in the purchase of public or other stock, or in any other monied transactions not inconsistent with the constitution and laws of this state, or of the United States, for the sole benefit of the said company." [77]

This simple, subsidiary clause would, Burr believed, give his company financial powers—to operate a bank, insurance office, real estate business, trading company, or all of them simultaneously—beyond the wildest dreams of any existing corporation, and there would be no need to come before the legislature again to secure an extension of the charter; for, just as the water function might be exercised in perpetuity, so could all the auxiliary powers.[78] Whether Burr informed Hamilton or the Federalist directors of this change in the bill is not known.

It was unprecedented in English or American corporation practice of the eighteenth century for such sweeping privileges to be granted in a charter. Ever since 1720, when the Bubble Act outlawed unincorporated joint-stock companies, the incorporation process had been strictly regulated in England; the practices spread to the American colonies and survived for quite a while in the new states. Along with a reluctance to issue large numbers of business charters went "the doctrine that a corporation's activities were limited to the purposes and powers specified in its charter", since "One of the evils the Bubble Act was seeking to curb was the use of charters for other purposes than those for which incorporation had been granted." [79] It was a feature of these English charters, repeated in New York, that they merely implied the positive or specific business powers of a corporation (except for a certain amount of detail in canal, bridge and turnpike charters), but they were full of limitations on the scope of a company's activities and its internal organization.[80]

[77] *New York Laws*, ch. 84, 1799.

[78] Davis, M. L., *Memoirs of Aaron Burr*, I, 413-16; *New York Laws*, ch. 84, 1799.

[79] DuBois, A. B., *The English Business Company after the Bubble Act, 1720-1800* (New York, 1938), pp. 24, 26, 39-40, 105, 107-8.

[80] *Ibid.*, pp. 108-9. Until 1825, it was difficult to discern in banking charters what the functions of banks were, although the limitations were clearly cited. Cleaveland, J., *The Banking System of the State of New York* (New York, 1857), p. xvi.

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Now Burr appeared with a charter which sanctioned a vast number of interlocking businesses and omitted the usual proscriptions or regulations. It may be assumed that Burr knew how unusual his "surplus capital" clause was; perhaps he expected to compromise, to reduce the all-embracing powers to a specific banking privilege, a form not yet in use in the United States and assumed illegally by some Scottish corporations.[81]

But Burr had no occasion to surrender even an inch in his frontal assault on the traditional corporation; his bill was passed virtually unaltered. How did it happen that the Federalist legislature allowed such a clause to be enacted when, within a few weeks, it was to be so plain to all Federalists that the Manhattan Company represented the grossest violation of all the rules which governed the erection of corporations?

One excuse, offered later, was that many legislators had already returned to their homes or were absent from the legislative chambers during the taking of votes.[82] Unless the Federalist absences were greatly in excess of the Republican, this factor would be of no significance; indeed, it would reflect on Federalists' fidelity to duty if their absentees had conspicuously outnumbered those of the Republicans. Matthew L. Davis, Burr's loyal friend and biographer, suggested that some of the legislators considered the entire water project "chimerical and visionary"; [83] they voted for it with the same indulgence one might now extend toward a salesman for land rights on the moon. The breath-taking boldness of Burr's "surplus capital" clause fitted in with a water-supply scheme too ambitious to be realized; it may have alarmed the legislators less than an outright request for banking privileges would have. Some assemblymen and senators, particularly from the upstate areas, were so relieved that the Manhattan Company was not seeking state funds, that they were careless

81 DuBois, *op. cit.*, pp. 108-9; Davis, J. S., *op. cit.*, II, 318-19, 327, indicates only restraints on banking rights.

82 *New York Commercial Advertiser*, April 29, 1799, "Anti-Revolutionist IV".

83 Davis, M. L., *op. cit.*, I, 416. This legislative session had granted enormous powers to Chancellor Livingston and a few other individuals; they were to have exclusive rights to put steamboats on all the navigable waters of New York State for twenty years, provided that within two years they operated a boat weighing at least twenty tons at a speed of four miles an hour.

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about inquiring into the self-financing methods that might be used.

However adequate these explanations may be for some of the individual legislators, they can hardly be accepted for the few Federalist leaders whose duty it was to sound a warning to the ordinary members when a questionable piece of legislation came before them. Why did this not happen to Burr's "surplus capital" clause? Assuming that the Federalists in responsible positions in the legislature and the Council of Revision were not bound to Burr by any private commitment and were not under heavy pressure to accede from New York City Federalists, involved in Burr's company, on what grounds could they have accepted so unusual a charter?

At that time, and for forty years afterwards, many people sincerely believed that a bank could not be established in the slapdash manner Burr was employing; it would be an illegal usurpation of powers. The ritual surrounding the award of a bank charter was so complex and formal that it did not seem possible to circumvent it. Banking was not yet an ordinary line of business; it had quasi-public functions and qualities.[84] To initiate the request for a charter, the promoters should present a formal petition stating the need for additional banking facilities, the public benefits to be realized, and the advantage to the incorporators. A legislative inquiry would then be undertaken and a charter might at length be granted as a special privilege after many of the details of the internal organization and operation of the bank had been specified.

If the Federalist legislators had reason to doubt that a bank could be set up under Burr's charter, they also had reason to doubt that there was any political danger in the new company. So well was the company camouflaged behind its noble purpose and its Federalist directors and supporters that the Federalist legislators may well have believed they were sponsoring a charter for a nonpartisan group, or, as had previously been the case in New York corporations, for a group predominantly Federalist, as the natural outcome of the political affiliations of important business men. Know-

[84] Hammond, B., "Long and Short Term Credit in Early American Banking", *Quarterly Journal of Economics*, XLIX, 85.

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ing Republican animosity toward banks, Federalists could not imagine one to be their object. Federalists, usually on the petitioning side, were unfamiliar with the rôle of challenger of corporate invasions of new fields or changes in form; it was the Republican fear of corporations which usually agitated the legislative chambers. Without that disturbing force, the Federalists were swept along by the haste attending the close of the session, by the worthiness of the cause, by doubts as to the power of the charter, by the eminent backing of the company, and, above all, by Burr's consummate skill in stage directing the truncated legislative hearings.[85]

The Assembly, where the bill originated, had a nominal Federalist majority, but it had been whittled away during the session by a switch to the Republican side on the part of ten or so upstate Federalists, who had been carefully cultivated and flattered by Burr's attentions.[86] Still, Burr was very cautious. When the Manhattan Company bill received its second reading, he arranged that it should be referred to a committee of three, headed by himself, instead of going to the Committee of the Whole House as was customary.[87] Thomas Storm, a member of the committee which drafted the charter, was reported to have heard the "surplus capital" clause for the first time on the floor of the Assembly.[88] On the afternoon of March 27, Burr reported that his special committee approved of the bill, and it was later charged that he had called the bill "a trifling act" of a private nature which required no discussion or even another reading of its provisions.[89] The next morning, less than twenty-four hours after its introduction, the charter was approved by the Assembly.

The Senate presented a somewhat more difficult situation,

85 Robert Troup, the friend of Washington and Hamilton, slyly observed of the charter that Burr had "begotten it on the body of the Legislature when it was lulled into a profound sleep by his arts and misrepresentations." Troup to Rufus King, June 5, 1799, King Papers, XLVII.

86 Hammond, J. D., *op. cit.*, I, 123-25.

87 *Assembly Journal*, 1799, p. 261. The other members were Jeremiah Lansingh of Albany and Henry M'Neil of Oneida County.

88 *New York Commercial Advertiser*, May 1, 1799, "The American".

89 *Ibid.*

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for it was more staunchly Federalist, less rushed, and less under Burr's personal influence than the Assembly. Burr did not turn to De Witt Clinton or any other Republican senator from New York City; instead he made good use of two Federalists and an apostate Federalist. He approached Thomas Morris, a Federalist from the Western District who was growing too close to Burr for Federalist comfort, and asked that Morris move the Manhattan Company bill to a select committee

> to report complete, which would supersede the necessity of its going to a Committee of the Whole. The senator replied, that though he had no objection to make the experiment, yet that he was persuaded that the motion would not prevail, because the Senate, not having a press of business before them, uniformly refused thus committing bills to select committees. . . . Colonel Burr then suggested, that perhaps if the mover would intimate, while on the floor, that the honourable Samuel Jones was contemplated as chairman of that committee, the confidence which the Senate was known to repose in him, and on his uniform attention to everything relating to the City of New-York, would perhaps induce the Senate on this occasion to depart from its accustomed mode of proceeding.[90]

Burr's strategy succeeded and the Lieutenant-Governor, Stephen Van Rensselaer, as presiding officer appointed Jones, Morris, and Ambrose Spencer, a Federalist until the preceding year and just that year voting with the Republicans.[91] Spencer subscribed to 100 shares of Manhattan Company stock.[92] The key man on the committee was Samuel Jones, Sr., a Tory in the Revolution, a distinguished lawyer dubbed "The Father of the New York Bar", the comptroller of the state since 1797 and simultaneously a Federalist state senator.[93] His approval of the charter virtually insured passage

[90] Davis, M. L., *op. cit.*, I, 413-16.

[91] *Senate Journal*, 1799, pp. 109-10; Hammond, J. D., *op. cit.*, I, 125.

[92] *A Collection of Rare Autographs . . . of the Bank of the Manhattan Company.*

[93] Hammond, J. D., *op. cit.*, I, 104-5; Fox, *op. cit.*, p. 12; Pomerantz, *New York*, p. 108. William A. Duer thought Jones "mistook his vocation when he became a politician." *Reminiscences of an Old Yorker* (New York, 1867), p. 23.

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in the Senate; his opposition could wreck Burr's plans. Jones and his committee held the bill for two days before reporting favorably on it to the Senate, yet Jones's only published explanation of his conduct, a month later, was that he had not been in the Senate when the bill was voted.[94] Burr's choice of Jones to head the committee suggests that he thought him amenable to influence; perhaps it was the Federalist directors of the Manhattan Company who had convinced Jones that he should go along with Burr. Even if this had occurred fairly recently, it was still possible that the people in New York City, cut off by the great traveling distance and difficult communications with Albany, knew nothing of the addition of the "surplus capital" clause. It appears from Matthew Davis' accounts that one member of the committee, very likely Jones, thought that the "surplus capital" clause should be stricken out. His objections were overcome, it was reported, when he heard from another committee member, probably Thomas Morris, that Burr desired the clause because a water company would not remunerate the stockholders and because the directors needed the freedom to set up a bank, an East India Company, "or anything else that they deemed profitable".[95] Whatever the true sequence of events actually was, it is clear that Jones missed the opportunity to thwart Burr's ambitions, and so bore an important responsibility for Burr's success.

The next step in the legislative process took the charter to the Council of Revision, which heard, on April 2, a major criticism of the bill from Judge John Lansing, a Republican who had either been overlooked by Burr or had been deemed unapproachable.[96] He disapproved:

> Because the bill creates a corporation with a capital of $2,000,000 vested with the unusual power to divert its surplus

[94] *Senate Journal*, 1799, pp. 110, 117; *New York Commercial Advertiser*, May 1, 1799, "The American".

[95] Davis, M. L., *op. cit.*, I, 415-16.

[96] The New York Constitution of 1777 established an unsalaried Council of Revision consisting of the Governor, the Chancellor and the Judges of the Supreme Court. They were to review all the bills passed by the legislature for conflicts either with the Constitution or with the public good. A two-thirds majority of each house was required to override the Council's veto. The Revised Constitution of 1821 abolished the Council.

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> capital to the purchase of public or other stock . . . which surplus may be applied to the purpose of trade or any other purpose which the very comprehensive terms in which this clause is conceived may warrant. This . . . as a novel experiment, the result whereof, as to its influence on the community, must be merely speculative and uncertain, peculiarly requires the application of the policy which has heretofore uniformly obtained; that the powers of corporations relative to their money operations, should be of limited instead of perpetual duration.[97]

When the Council of Revision considered Judge Lansing's objection, the important Federalist Judge Egbert Benson joined Chancellor Robert R. Livingston, who already was the largest single stockholder in the Manhattan Company, in a rejection of the opinion of Judge Lansing. Governor John Jay was said to have supported Lansing but " had no vote ".[98] Benson, considered the most likely nominee for governor by the Federalists if John Jay declined to run again, shocked many people by his vote and forfeited his nomination, after his action was viewed with hindsight by Federalists who had been uninvolved in the legislative proceedings.[99] Judge Benson's old friend, Rufus King, the American Minister to England, writing also with the advantage of time, declared that it was mysterious to him " that our friend Judge B. should have approved a charter so unprecedented, and the Powers and influence whereof were so obviously intended for mischievous purposes— ".[100]

In the same vein, Federalists privately criticized individuals and groups in the legislature. Robert Troup wrote to Rufus King that the " monied interests of the City . . . attach much blame as well to the council of revision as to the assembly & senate." [101] So hard-pressed were Federalist newspapers to find any of their own party to admire in connection with the legislative history of the Manhattan charter

[97] Street, A. B., *The Council of Revision* (Albany, 1859), p. 423; Davis, M. L., *op. cit.*, I, 415-16.

[98] Troup to King, June 5, 1799, King Papers, XLVII. The constitutional provision of 1777 did not deprive the governor of a vote.

[99] *Ibid.*

[100] King to Troup, July 15, 1799, *ibid.*, VIII.

[101] Troup to King, April 19, 1799, *ibid.*, XLVII.

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that they several times praised Republicans who, for their own reasons, temporarily were on the outs with Burr.[102]

As for the Republicans, they might shower praise on Burr for his various skills, but they would have been less than honest had they not acknowledged the assistance of Federalists at every stage. The Federalist willingness to shelve municipal water works in favor of a private company was crucial at the opening of Burr's campaign. When he altered the character and potentialities of the Manhattan Company on the eve of the presentation of the proposed charter to the Assembly, the Federalists who had lent their names to the project did not withdraw their support. Whether they were ignorant of the changes in the proposed charter, eager for the business opportunities implied in the "surplus capital" clause, or convinced that Burr had adopted the only practical course in view of the legislature's adverse position on the grant of the auction duties to New York City, the net effect of the continued backing of the Manhattan Company by leading Federalists was to dull the critical faculties of the Federalist legislators. They approved a serious departure from the accepted ground rules for chartering business corporations, and failed to realize that their laxity might benefit Republicans rather than Federalists. Without Federalist help, Burr could not have achieved his legislative triumph.

The mixed reactions of Federalists, once the new company was launched, forms another episode in the early years of a corporation destined in its long life to exert an influence on political and economic affairs in New York State beyond the scope of other business companies, banks, or water works.*

BEATRICE G. REUBENS

BARNARD COLLEGE

102 *New York Gazette and General Advertiser*, May 1, 1799, "A Citizen"; *New York Commercial Advertiser*, May 23, 1799, "Socrates". Thomas Storm, Philip I. Arcularius and Elias Nexsen, the three Republicans singled out by the Federalists in 1799, all ran as Republicans under Burr's leadership in 1800. Schachner, *Aaron Burr*, p. 171.

* A second article on the Bank of the Manhattan Company will appear in the March 1958 issue of the QUARTERLY.—Ed.

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REVIEWS

Nuclear Weapons and Foreign Policy. By HENRY A. KISSINGER. Foreword by Gordon Dean. New York, Harper & Brothers for the Council on Foreign Relations, 1957.—xx, 455 pp. $5.00.

The modesty of Mr. Kissinger's title conceals both the magnitude of his effort and the depth and power of the analysis he has brought to it. What he is attempting is nothing less than a whole new theory of war and international power relationships really adequate to meet the revolutionary fact of the nuclear weapons systems. If the attempt is less than completely successful, it is brilliant and profoundly challenging.

"It is the task of strategic doctrine to translate power into policy." Kissinger quotes from our statesmen, analyzes our discontents over Korea, gives a critique of our disarmament and NATO policies, to show that in the dozen fateful years since Hiroshima we have consistently failed to produce a strategic doctrine capable of doing this under the revolutionary new situation. The "temptation" has always been to integrate the startling new fact into "familiar doctrine; to deny that a revolution is taking place." Kissinger, compelling us to look the weapons revolution squarely in the face, attempts to deduce from it the strategic doctrines (both military and political) which it demands.

Since the end of the atomic monopoly and the appearance of the megaton bomb and missile carrier, we have been putting our major expression of military power into preparing for a form of all-out warfare which, if initiated by *either* of the world's two great power centers, must end in the total destruction of *both*. This is a situation unparalleled in the whole history of warfare and of the power relationships of armed nations. A weapon so appallingly suicidal becomes impossible to use. We dare not resort to it; its sole function becomes that of preventing the Soviet Union from using its similar weapons against us. Our principal repository of military power thus becomes disconnected from the policy it should exist to serve.

> The consequences of military actions which seemed open to us always appeared to outbalance the gains to be achieved. Thus our

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> policy became entirely defensive. . . . The gap between military and national policy was complete. . . . and our military doctrine could not find any intermediate application for the new weapons.

The retreat into a "massive retaliation" which we could use only in the last extremity implied a corollary "belief that diplomacy can settle disputes through the processes of negotiation, detached from the pressures which otherwise shape international intercourse." The belief has proved illusory, and we have been brought back "to the dilemma which has plagued all our post-war military thinking. Does the nuclear age permit the establishment of a relationship between force and diplomacy?"

In other words, is limited war a practicable instrument of international power relationships? Kissinger believes that if its imperatives are rightly understood, it can be made so. A doctrine of limited war implies a great deal more than a mere renunciation of weapons; it requires a conscious limitation of political objectives, a renunciation of the traditional concept of war as having no end other than military "victory", a willingness always to leave open to one's opponent a possible line of retreat, and an ability to convince the opponent that our own objectives are limited. Only in such a frame of policy can the weapons be kept under control.

The weapons are still an appalling problem. Kissinger considers it impossible to return the nuclear terror to its test tubes; if limited war is to be restored as an instrument of policy, it must be in a form of warfare shaped around at least the tactical atomic weapons. The author attempts to construct such a war—waged by small, mobile, atomic-armed task forces operating somewhat like naval task forces against each other through a disputed countryside, whose great population and industrial centers are protected by mutual agreement and self-denying ordinances. He suggests that in these ways even such great issues as the control of Western Europe might be brought to military decision without triggering off the universal holocaust.

Kissinger's war has been severely, and I think persuasively, criticized on technical grounds. But he is right in emphasizing with how much self-restraint, explicit or tacit, even great issues can be fought out when it is clearly seen that defeat will not be equivalent to disaster, but that no settlement at all must mean the catastrophic destruction of *all* parties. But only under a doctrine of limited, of intermediate, ends and means can such a realization come about. This is the author's underlying argument. Space forbids comment on the implications he draws from it as to disarmament, as to policies toward the "uncom-

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mitted nations" and as to many other aspects of the international scene. He may not be right; but he is always stimulating, and has done much to raise all the arguments to the plane of rational debate.

WALTER MILLIS

GLEN HEAD, N. Y.

Churchill, Roosevelt, Stalin: The War They Waged and the Peace They Sought. By HERBERT FEIS. Princeton, Princeton University Press, 1957.—xi, 692 pp. $6.95.

Mr. Feis's latest volume comprehends the years from the creation of the Wartime Coalition in January 1942 to the eve of the Potsdam Conference, May 1945. American and British students, at least, will find much of the narrative familiar in its broad outlines, although access to certain unpublished source materials, notably the papers and records of Averell Harriman, throw fresh light on a number of hitherto dark turnings along the lengthy road down which Mr. Feis leads his readers.

In the first instance tribute must be paid to the author for the skill and clarity with which he weaves a complicated sequence of events into a comprehensive, coherent account. The book's jacket describes the volume rather modestly as "a diplomatic history of World War II." It is, in fact, a good deal more. The crucial elements of coalition military strategy and action are so consistently interwoven with the elements of diplomacy and politics that the resulting web can be more accurately described as diplomacy or statecraft for coalition warfare.

A cautious and scrupulous scholar with a sensitive feeling for both the grandeur and the tragedy of the drama, and of the heroism and the baseness of the actors' rôles, Mr. Feis seeks in the main to tell his readers how it really happened as it did, and how those in authority explained or justified the decisions they made for better or for worse. Nevertheless, the long and necessarily involved narrative is enlivened and enriched by unassuming, perceptive, and often witty expressions of assessment and interpretation, responsibility for which Mr. Feis frequently lures the reader into sharing with him. For the most part, these flights, or rather cautious ascents, into the empyrean of historical judgment lead the author to conclude that in the actual circumstances of the war (and given human frailty), the great decisions are generally understandable and often defensible even when in the aftermath they have proved tragically wrong. While, for example, Mr. Feis is apparently not impressed with Joseph E. Davies' grasp of the ultimate designs and purposes of the Soviet Union, he finds neither fools nor traitors in our ranks to bear the guilt

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for the plight in which the post-war world now finds itself. In short, as far as Anglo-American policy is concerned, Mr. Feis comes close to suggesting that *tout comprendre, c'est tout pardonner,* as is indicated by his concluding lines: "Roosevelt and his colleagues were right: the nations needed moral law and freedom. Churchill was right: the nations needed magnamity and balance of power. Stalin was sullying a right: the Russian people were entitled to the fullest equality and protection against another assault upon them. . . ."

One closes this valuable and lengthy work with regret that Mr. Feis feels he must leave the account of the final and total collapse of the coalition to other minds and hands. But one has also the inescapable feeling that the time for a synthesis of the vast accumulation of studies of the war and its aftermath is close at hand. Mr. Feis is only the last of a considerable list of historians to adumbrate such "lessons" as the grave error of the American leaders, civilian and military, in ignoring Clausewitz' dictum on war as the continuation of politics—a truth not overlooked by a frustrated Churchill and one exploited to the limit by a cynical Stalin. Doubtless, many obscurities remain to be uncovered before voracious fact-finders are satiated, but is it not now possible for daring and philosophically oriented historians to undertake the even more difficult task of interpreting events and rôles in the unfinished spectacle in which all of us must now perforce be actors and none of us audience? When the confused and tumultuous segment of world history to which Mr. Feis devotes himself is one day assessed in the light of what preceded it, and particularly of what has followed it, the totality will inevitably take on new meaning and deeper significance. For good and sufficient reason, Mr. Feis elected to plough a narrower field. With this the reviewer sympathizes, having himself done likewise. This should not, especially in view of the rich harvest Mr. Feis has provided, discourage a wider and a deeper look by those who will have profited by this and other labors.

S. Everett Gleason

Washington, D. C.

Russia in Transition and Other Essays. By Isaac Deutscher. New York, Coward-McCann, Inc., 1957.—viii, 245 pp. $4.50.

In one of the fourteen essays written between 1948 and 1957, and brought together in this volume, Isaac Deutscher speaks of the "ex-Communist's characteristic incapacity for detachment" which leads him to depict communism and Stalinism as "a gigantic chamber of intellectual and moral horrors." Deutscher

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agrees that the story of Stalinism "abounds in horror", but adds that "this is only one of its elements; and even this, the demonic, has to be translated into terms of human motives and interests." His advice to the ex-Communist is: "To watch with detachment and alertness this heaving chaos of a world, to be on a sharp lookout for what is going to emerge from it, and to interpret it *sine ira et studio. . . .*"

This admonition epitomizes the approach and work of Isaac Deutscher. Scholarly detachment and a scrupulous regard for evidence linked with dramatic emotional insight, broad philosophical and historical perspective, and a distrust of cold-war partisanship and oversimplification characterize his brilliantly analytical biographies of Stalin and Trotsky and this present volume as well.

The leading article, "Russia in Transition" (written in January 1957), is largely an attempt to support his generalization that "It is the twilight of totalitarianism that the U.S.S.R. is living through." This essay and his "Post-Stalinist Ferment of Ideas", in effect, constitute supplements to his book, *Russia, What Next?*, which, *as early as April 1953*, suggested that "By its barbarous methods, it [Stalinism] succeeded in driving out of Russia most of the barbarism from which it had drawn its strength." (At the time, his analysis evoked almost universal dissent on the part of Soviet scholars in the West.)

Mr. Deutscher finds support for his "twilight" thesis in the rise of collective leadership, the essence of which is "dispersal, diffusion, and therefore limitation of power"; the curbing of the political police; the near-dissolution of the concentration camps; the rising intellectual and artistic ferment; the rehabilitation of past heretics which will militate against wholesale condemnation of present and future heresy; and the reawakening egalitarianism from below reflected in the decline of the piecewage system, the rise in minimum wages and pensions, and the abolition of all tuition fees. He foresees "the formation of a new political consciousness; and the inception or regeneration of a spontaneous mass movement."

It would be easy to dismiss Mr. Deutscher's thesis with the assertion that history has often belied prophets. One can say, too, that the dilemma of the peaceful transfer of authority within a monolithic power structure remains unresolved and that there is evidence that a stunning reversal of the limited democratization may be in the making. But, whatever the individual and varying assessments, there can be little question of the tenable and provocative nature of Mr. Deutscher's conception.

The remaining essays form a somewhat disparate group—all

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interesting and some representative of Deutscher's original, probing, and penetrating mind at its best. No one concerned with the impact of Sovietica will fail to read "Khrushchev on Stalin", and all of Part Four, "Heretics and Renegades".

SAMUEL HENDEL

THE CITY COLLEGE OF NEW YORK

Totalitarian Dictatorship and Autocracy. By CARL J. FRIEDRICH and ZBIGNIEW K. BRZEZINSKI. Cambridge, Harvard University Press, 1956.—xii, 346 pp. $4.25.

The Soviet System of Government... By JOHN N. HAZARD. Chicago, The University of Chicago Press, 1957.—xi, 256 pp. $4.00.

These are both useful additions to the literature of comparative politics. Professors Friedrich and Brzezinski have attempted the formidable task of defining and illustrating essential common characteristics of Italian Fascism, German National Socialism and Russian communism. Professor Hazard, in a felicitously written textbook contents himself with an examination of Soviet political institutions in the light of "Western" experience.

Friedrich and Brzezinski list six characteristics of totalitarian dictatorship, which they distinguish from Oriental despotism and absolute monarchy. They do not believe it is possible to explain why modern totalitarianism came into existence, but they consider that it grew out of Western, modern institutions and ideas, which are not "causes" of totalitarianism, but its necessary conditions. While this approach is open to question in many ways, and is highly pessimistic, it is certainly provocative, especially as presented in this erudite volume. It would perhaps be interesting to compare the Friedrich-Brzezinski approach with that of Karl Wittfogel on the one hand and with some of the "psycho-cultural" interpretations on the other. Friedrich and Brzezinski seem, on the whole, to regard "ideology" as the most important element in totalitarianism. They do not accept the extreme version of the "ideological" thesis presented by Hannah Arendt, but seem to attempt to synthesize her interpretation with others, notably those of Sigmund Neumann, Franz Neumann, Barrington Moore and Merle Fainsod.

As is inevitable in such an ambitious undertaking, which, it should be observed, the authors approach with becoming modesty, perplexing problems trouble the reader. Why, for example, is it precisely where capitalism and democracy have been weakest that totalitarianism has had its strongest appeal? If, as the authors appear to think, a dictatorship of this kind becomes increas-

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ingly "total" with the passage of time, how can one explain either the continued unrest of youth in communist states, or the revival, in Russia, for example, of so much of the Russian traditional culture long after 1917? It must be noted that this study suffers from many small factual errors and inconsistencies which seriously detract from its value and impact. It is never entirely clear whether the authors regard the behavior of totalitarian rulers as the result of conscious intention to impose their goals, or of compulsive, irrational struggles with unforeseen contingencies. On a more trivial level, the use of such expressions as "Slavic satellites" when, presumably, the authors have in mind the whole Soviet orbit except for East Germany, and the statement that Stalin intended to "liquidate the peasants as a class" in the 1929-1933 period, are unfortunate.

Hazard does not share the Friedrich-Brzezinski contempt for Soviet political forms. If he sheds less light than they on the irrationality of totalitarianism, he does show an American reader just how, and how differently from us, Soviet rulers handle the business of government. While he adds nothing to our knowledge of party structure, he gives us a valuable account of the Soviet legal and court system and presents material not available elsewhere on Soviet public administration. While Hazard, like Friedrich and Brzezinski, rejects the Soviet system, he is more inclined to regard it as rational and, even, perhaps, under Soviet conditions, as in a way "normal", than are his more ideologically oriented colleagues.

Each of these books has its particular contribution to make to the teaching of comparative government. Each sees some facets of the truth of a reality so close, so unfamiliar and so frightening that consensus will be decades in the making. If Soviet reality seems somewhat less frightening as seen by Hazard than as seen by Brzezinski, it also seems in a way to be a greater challenge to our system of constitutional democracy. Hazard's robust "Marxists", serene in their sense of mission and sharpened and toughened by experience, are perhaps more formidable competitors than Friedrich's and Brzezinski's neurotic tyrants.

Perhaps the Friedrich-Brzezinski vision better reflects the abnormal aspects of the modern type of dictatorship. The Hazard view, it seems to me, despite some unconscious projection of Western liberal values onto absolutist-minded Russians, grasps better the elements of health, strength and stability in Soviet society, which, to Friedrich and Brzezinski, seems to be more a madhouse than a society.

FREDERICK C. BARGHOORN

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A History of Communism in East Asia. By CAPTAIN MALCOLM KENNEDY. New York, Frederick A. Praeger, 1957.—ix, 556 pp. $8.50.

This book is not recommended to the impatient reader who seeks easy answers either to the nature of communism, or to the variegated background loosely called Asia. Despite a lucid style, the author treats his subject thoroughly and at great length. He substitutes a wealth of first-hand experience and a zeal for research for a journalistic flair or easy generalization about communism and Asia. The result is a comprehensive, authoritative history, and a valuable work of reference.

Captain Kennedy has published four other books, mainly devoted to military and political aspects of Japan. He was employed by the British Foreign Office for many years, prior to his retirement in 1955. He has traveled widely in Asia. His study provides the fullest account yet published of the development of communism not only in East Asia, as the title suggests, but also in Southeast and South Asia. The place of this work is assured, for it matches and even supplements the familiar works of David Dallin—*The Rise of Russia in Asia* and *Soviet Russia and the Far East*—which tend to be Russia-centered. In tone and breadth of scholarship, the present volume can be compared favorably with the recent work by F. C. Jones, *Japan's New Order in East Asia.*

Captain Kennedy's book is divided into four parts. Part I is perhaps the most important, concentrating as it does on the confluence of nationalism and communism (chap. ii), which have been so closely interwoven as to be almost indistinguishable. As Stalin claimed in *Marxism and the National and Colonial Question,* it was the Communists who first spotted the connection between nationalism and the problem of colonies. On the other hand, it was the condition—not Marxist analysis—which facilitated the coördination of the struggle of backward colonies with the struggle of the so-called advanced proletariat against the common enemy, imperialism. Also significant is the author's treatment of various plans for pan-Asia (chap. iv).

The key essay of the book is, however, that which pieces together classics and exegeses of Marxist theory in order to outline the pattern which was to be set down on the Asian cloth (chap. xi). Here and, indeed, throughout the book, the author may well open himself to the charge that he tends to take the results of his own content analysis of communist dogma too seriously. That several revolutions have occurred in Asia simultaneously, Captain Kennedy documents brilliantly. That the Communists would like us to believe they foresaw these revolutions, inspired

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them, controlled them, and wrote their history—all via Marxist science—is also obvious from his analysis. But we must certainly distinguish carefully between conditions which conduce to revolutions and the doctrines of revolutionists.

In fact, Part II of the volume, tracing developments between the World Wars, demonstrates the fallibility of the dogma, especially in Sino-Soviet relations and Comintern bungling (chap. xv). Especially clear is the description of the chain reaction set off by Japan's plunge into war and aspects of Japan's rise and fall (chap. xxv). The transition from Part III to Part IV is highlighted by a description of the aftermath of the Pacific War (chap. xxx). Then the author describes the Communists' path to power in China, which is to be a model for all Asia; post-war developments in Japan and Korea; and the post-colonial vacuum in Indo-China, Burma, Malaya, Indonesia, and the Indian subcontinent.

The author's conclusions (chap. xxxix) are so restrained and thoughtful as almost to defy quarrel and certainly to avoid being outdated. Two facts are hammered home: Western domination of Asia and Japanese hegemony in East Asia are gone. Although imperialism and even Asian nationalism, therefore, should not be strong points for Communist exploitation, they remain important in the unity of anti-colonialism, the paradox that Americans remain the chief target, and the fact that Communists have lately allowed subversion to assume a secondary rôle. Yet the chief forces at work in Asia are not intruded from the outside. The spectacular rise of India and China as Asian Powers, the former's positive bid for leadership of uncommitted nations, and the latter's competitive bid to offer a new model for an emergent Asia—these are the major factors. Unfortunately, the author permitted himself only the briefest speculation on the great mystery, whether the tactics involved in applying communism to China have not so varied from orthodoxy as to shift the strategy of communism itself.

Appended to the book are brief evaluative essays on major sources used, a complete list of materials cited, and detailed notes. There are two indexes, to topics and to persons.

ARDATH W. BURKS

RUTGERS UNIVERSITY

The Chinese Economy. By SOLOMON ADLER. New York, Monthly Review Press, 1957.—xi, 276 pp. $5.00.

Mr. Adler was trained as an economist at Oxford and the London School of Economics but he got his experience of China as a member of the United States Treasury during World War II

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and after. He was acting member of the Stabilization Board of China and later Treasury attaché at the American Embassy in Chungking and Nanking. After the war he was de-naturalized and now lives in England.

He considers China's economic development to be of interest for its own intrinsic significance, for the comparison with the Soviet Union and for the light it throws on the problems of industrialization in underdeveloped countries. The transition to capitalism "has now become at least as difficult as the transition to socialism for such countries" (p. viii), says Mr. Adler, and as for political considerations he tosses the question aside by adapting a couplet of Pope's:

> For forms of government let fools contest
> Whate'er is best industrialised is best.

Having offered this tendentious advice to underdeveloped countries Mr. Adler proceeds to offer a sophisticated economic analysis of Communist China's effort to industrialize, based largely on communist materials and backed by the highly uncritical report of the Indian Ministry of Food and Agriculture, *Report of the Indian Delegation to China on Agricultural Planning and Techniques.* One looks in vain for any reference to the highly critical report of the Indian Cooperative Union which stated that Chinese coöperatives were based on coercion. In his account of the economic situation in 1949 the Communists apparently played no part in bringing about economic dislocation; the Mandate of Heaven was exhausted and that was that.

Capitalism was abolished step by step "peacefully". The land reform was carried out "largely by persuasion" (p. 31) and by enlisting the voluntary coöperation of the peasants and releasing their latent energies rather than by coercion and bureaucratic pressure. This hardly fits in with Chinese Communist accounts of bloodshed and compulsion and bureaucratic *cadres,* or with the massive drive for collectivization that followed on Mao's speech of July 1955. Nor does his cheerful picture of released peasant productive energies jibe with Communist accounts of large-scale peasant sabotage which included destruction not only of animals but also of trees. As for the economy as a whole Adler admits that heavy industry, large-scale transport and distribution, and finance are predominantly socialist although some concerns are semi-socialist. Agriculture is either semi-socialist or socialist. This is a transitional economy on its way to socialism.

The key question is, when will the process of industrialization become autonomous, the process of expansion self-feeding and

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self-financing? This is the critical point and China may reach it with the end of the First Five-Year Plan. The Chinese have naturally rejected the view that light industry should be developed first because the example of Russia shows that with the "socialist" approach the rate of growth in industrialization "exceeds any on record" (p. 65). Nor is there any fear that the rate of population increase will catch up with the rate of increase of output. Birth control is now advocated only because increasing population cuts down the pace of industrialization and economic progress.

Living standards have risen since 1949, says Adler. His reference is Chou En-lai. "The New Democratic stage of the Chinese Revolution was in essence a peasant revolution, and the peasants were rightly its main beneficiaries" (p. 191). So enthusiastic is Adler about the "emancipation of the peasantry" (p. 32) that he can think of no other single measure that contributed more to the "Greatest Happiness of the Greatest Number" (p. 32). Mao himself could hardly think up a better description of his war on the peasantry. But this is not all. We are asked to believe (p. 192) that famines have been wiped out (not according to the mainland press), the cultivation of opium stopped and the opium traffic eliminated. Actually Communist China, according to UN statistics, is engaged in a tremendous opium traffic. We are told that the minority people have been liberated. Perhaps this explains the retreat from Tibet? So the Chinese march on with a better chance, says Mr. Adler, to achieve industrialization without the soulless philistinism that has marked industrial revolutions in the past. It is not an accident, we may assume, that at a time when China's internal economic and political troubles have never been greater Mr. Adler should reappear with such a soulless and philistine account of Communist China's economy.

GEORGE E. TAYLOR

UNIVERSITY OF WASHINGTON

The Transfer of Power in India. By V. P. MENON. Princeton, Princeton University Press, 1957.—xiv, 543 pp. $8.50.

This book is the most authoritative work yet published on the events leading to the independence of India and the accompanying partition into two nation-states (India and Pakistan) on August 15, 1947. Mr. Menon was constitutional adviser to the Governor General of India for five years before that date, and he was the designer of the final plan which was adopted for the transfer of power as well as the chief architect of the Indian In-

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dependence Act 1947 under which the transfer was made. He participated in many decisive conversations during those years, had access to all the memoranda and other documents which reached the office of the Governor General during that same period and presumably to the files for previous years, and appears to have based his narrative and discussion upon all these documents as well as upon personal notes. It seems a reasonable assumption that much of what he says is influenced by an acquaintance with documents which are still not quotable even by him.

The book has at least two kinds of interest. The first is that as a historical narrative. This starts off with a relatively brief prelude (pp. 1-57) dealing with the slow advance of India in self-government from 1858, at the end of the "Indian Mutiny", to 1937, when nationalist activity, after winning the Constitution of 1919, had won the Constitution of 1935 then being set into operation. In this prelude are developed two themes that dominate the entire drama: the nationalist desire for independence and the growing mistrust in the Muslim minority of the Hindu majority, which eventually led to the demand for a separate nation-state and the creation of Pakistan. The first act of the drama (pp. 58-235) concerns the deadlock during the war, and its climax lies in the British War Cabinet's proposals (March-April 1942) made through the "Cripps Mission", which, it is true, offered independence but at the same time, as Mr. Menon says, gave "the death-blow to Indian unity" (p. 438). The act ends with the failure of the Simla Conference (June 1945) called by Lord Wavell. The second act (pp. 216-349) begins with the Labor party's victory in England (July 1945), followed by the 1945-46 elections in India, in which Congress swept the general constituency, and the Muslim League the Muslim special constituency. The Labor Cabinet sent out a mission in 1946, which after vainly trying to break the deadlock evolved its own plan for preserving Indian unity by means of a "three-tiered" government and for some months seemed likely to win acceptance of that plan. A Constituent Assembly was set up, but the Muslim League finally boycotted it and the continuing deadlock was now embellished with communal rioting and other disturbances. In the third act (pp. 350-416) the Labor government gradually evolved a plan through the agency of Lord Mountbatten as Viceroy, which brought a settlement by offering simultaneously Dominion status and Partition. In an epilogue (pp. 417-435) is recited the violence at the time of Partition, with its accompanying migration of population and continuing bitterness between the two new nations. The author summarizes the whole

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drama in a "Conclusion" (pp. 436-442), after which he gives ten appendixes. The story is told with a wealth of specific detail, bewildering in its total effect, but at the same time bringing out all the different views on the issues involved, the steps leading to each action by the government of India, the Indian National Congress, and the Muslim League, and the consequences of each action. No one else has told the story of Indian nationalism and Muslim separatism so instructively.

The second interest of the book lies in its illustration of the problems of constitutional development and the nature of its evolution in India, particularly with reference to the relationship between India and Britain. Mr. Menon gives a good many of the raw data in this field, accompanied in many places with discussion of the problems involved from the viewpoints of the practical administrator.

The book is not, and does not aim in any sense to be, a social or economic history nor even a discussion of relations between India and any part of the Commonwealth except Britain. It is written with great appreciation of the heritage which the British left in India, and at the same time a consciousness of the inadequacies in Britain's dealings with Indian nationalism. Throughout, the tone is objective. Perhaps Pakistanis, proud of their new nation, may feel some bias in Mr. Menon's remarks about Jinnah, when in summing up he says (p. 437): "It is a sad reflection that the British who achieved that unity [of India] could not bequeath it to their successors. But sadder still is the thought that Jinnah, the hero of my generation, a great nationalist in his time and one who fought many a battle for the freedom of his country, should later have fought so successfully against its freedom, and should eventually, almost single-handed, have brought about its division." To Mr. Menon, as to most Indians in 1947 and now, Partition was a tragic blemish attached to independence, and he says feelingly (p. 442): "That the future of the two countries depends upon mutual good relations is almost a truism." Some kind of coöperation must be evolved to counteract the geographic and economic illogic of the separation and, in his words, "bring about for both countries enduring peace and progress."

W. NORMAN BROWN

UNIVERSITY OF PENNSYLVANIA

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Christian Democracy in Western Europe, 1820-1953. By MICHAEL P. FOGARTY. Notre Dame, University of Notre Dame Press, 1957.—xviii, 461 pp. $6.75.

Christian Democracy is a conspicuous phenomenon in post-war Europe, but it is difficult to appraise its significance. How far has it contributed to the stability of democracy, how far has it been used as camouflage by Right-wing forces? What have been its real achievements in the field of legislation?

The claims of Christian Democracy are placed high by Michael Fogarty, Professor of Industrial Relations at University College, Cardiff, Wales. He sees its rise as a process of reconciling Christianity, especially though not exclusively in its Catholic form, with modern civilization. It has been "a process of saying yes and no"—that is, of accepting the techniques of modern civilization, but only within the limits set by Christian teaching. The resulting contribution to social attitudes is a renewal of the federalist conception of society, a stress on the importance of small groups, especially the family, so as to correct the liberal overemphasis on the individual and the socialist overemphasis on the state. In the sphere of policy, Christian Democracy has had rather less conspicuous results, but among them is a stimulus to social legislation in some countries. In the past, however, it has been often mainly a defensive movement, seeking to defend ecclesiastical interests or to affirm Christian principles in an age of indifference to them. It is Fogarty's conclusion that this defensive period has ended, that the Christian Democratic movement is now in a militant phase in which it concentrates on the problem of how to transform society.

Of all these phases of Christian Democracy Professor Fogarty gives a learned account. He has searched the sources in four or five languages, and has interviewed the leaders and attended meetings in six or seven countries. He has also been an active participant in Catholic social movements for many years. From all this work and experience he has produced a book that is, within its limits, almost encyclopaedic in character. It deals with Christian Democracy as an idea, as a movement and in the long perspective of religious history. The political aspects, which have been so prominent in the past few decades, receive less attention than the social manifestations such as trade unions, professional associations, youth organizations, and women's groups. These are for the author the nine-tenths of the iceberg that lies below the surface, the most important part of the whole complex of activities by which laymen (and Christian Democracy is mainly a laymen's movement) tackle social, economic and political problems in the search for solutions that are both demo-

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cratically arrived at and Christian in content. For example, says Professor Fogarty, the strength of Christian Democracy in France lies in the Christian trade unions and youth movements rather than in the MRP.

Until the last chapter, this book is overloaded with details about the minutiae of organizations that are often referred to by initials rather than by name. But the last chapter is a most interesting placing of Christian Democracy in the perspective of church history. It is full of illumination for the reader.

I do not think that Professor Fogarty has proved that Christian Democracy is "the most influential single movement of recent years" in Continental Europe, but he has certainly demonstrated that it deserves the close attention of students of social history and politics. Incidentally, although he writes as a Catholic, he is objective and even generous in his treatment of Protestant contributions to the movement.

THOMAS P. PEARDON

BARNARD COLLEGE

Diderot: The Testing Years, 1713-1759. By ARTHUR M. WILSON. New York, Oxford University Press, 1957.—xii, 417 pp. $10.50.

Progress in the Age of Reason: The Seventeenth Century to the Present Day. By R. V. SAMPSON. Cambridge, Harvard University Press, 1956.—vi, 259 pp. $4.25.

The Enlightenment has not had a good press in our crisis-ridden century. Beset with anxiety, frightened by man's irrationality and brutality, critics have censured what is wrongly called the Age of Reason for its *hubris,* and attributed to the *philosophes* a confidence they did not possess, a theory of progress they did not hold, and predictions they did not make. The books under review suggest that we may be on the point of achieving a juster perspective on the eighteenth century.

Of all the *philosophes,* Diderot, the imaginative psychologist, is perhaps closest to the "demonic" side of human nature, and recent interest in him is not an accident. Excellent editions of his correspondence, his *Salons* and other works are now in progress; Jacques Barzun and Ralph Bowen have given the American public a sprightly and inexpensive collection of Diderot's most provocative works. In this Diderot revival, Mr. Wilson's book—the first in a projected two-volume biography—is especially welcome. *The Testing Years* takes Diderot through his youth, his early unhappy marriage, his first philosophical writings, the creation of the *Encyclopédie* and the troubled publication of its

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first eight volumes, his estrangement from Rousseau. It is a full life, and Mr. Wilson paints it with restraint and balance, judiciously using the rich materials available to him. If anything, the book is too restrained, too balanced, too judicious, to give us a full sense of Diderot's bubbling excitement, his frank sensuality, and his unashamed and experimental contradictions. Mr. Wilson leaves Diderot on the verge of his greatest achievements—in 1759 Diderot had written none of the books on which his fame rests today.

Still, the years before 1759 are important enough, both in the life of Diderot and in that of the Old Régime, to make a full and informative volume. Mr. Wilson reminds us in some illuminating pages that the year 1749, when Diderot was imprisoned in the fortress of Vincennes for his *Lettre sur les aveugles,* was a grim year for the French monarchy. The unpopular peace of Aix-la-Chapelle had recently concluded the unpopular war of the Austrian Succession, the government was making energetic attempts to stifle radical opinion, the countryside was starving, the state was nearing bankruptcy, and the Marquis d'Argenson was predicting a revolution. In those years of trouble, when the Most Christian King was trying in vain to tax his clergy, and when the ministers of the crown were in constant, undignified conflict with the powerful *parlements,* Diderot's *Encyclopédie* was a revolutionary act—the revolt of technology against tradition, of pagan empiricism against Christian rationalism, and a focus for those discontented with the muddle in church and state.

It is interesting to observe that Diderot's political opinions during these years were vague and abstract. While Louis XV was battling the Assembly of the Clergy, Diderot wrote his article on political authority for the *Encyclopédie,* an article that could be taken to support the royal position, with its injunctions to obey authority, and the bishops' position, with its praises of limited government and warnings against despotism. For a writer as vividly engaged in the world around him as Diderot, this was surprising detachment, and it is my one serious regret over *The Testing Years* that Mr. Wilson fails to explain Diderot's politics—or lack of politics.

I am not suggesting that the *philosophes* were unpolitical animals—far from it. They had to be political under extremely trying circumstances—censorship, strong opposition from the church, incomprehension from conservative opinion. "Few writers", Mr. Sampson tells us in his essay, "are more vulnerable to criticism not so much for the content of their beliefs as for the way in which they held them" (p. 11). His book is a valuable attempt to uncover the "content of their beliefs" beneath their polemical tone, and to rescue from it what is of permanent value.

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It is, I think, a generally successful enterprise. Mr. Sampson covers familiar territory, but his illustrations are fresh, and his viewpoint is equally untouched by uncritical adulation of, or unrelieved hostility to, the Enlightenment. He is perhaps a little too harsh on the historical writings of the *philosophes,* too much inclined to think of them all as Newtonians, too free with the term "rationalist". But these are matters of nuance and emphasis.

Mr. Sampson portrays the *philosophes* as practical reformers, casting off Christian theology, slowly developing a confident view of the world, and ending—not beginning—with a theory of human perfectibility. Even the believers in progress, like Hartley and Godwin, "must be credited with the realization that the application of human intelligence offered better prospects of solving the many problems that beset them than the traditional reliance on the dogmas of authority in the shape of the ancient institutions of Church and State" (p. 65). In their search for a reliable basis of ethical behavior, they turned to "nature" (a complicated conception that Mr. Sampson analyzes with care), and to history, where they made remarkable progress over Bossuet without, however, breaking through to true objectivity. Some, but by no means all, of the *philosophes* became Utopians, erecting inevitable progress into an eschatology. When they were done, the natural law tradition was gone, and the nineteenth century turned to Hegelian and Marxist theories of history and to Utilitarianism. Today we are not so optimistic, and spend much time sniping at the Enlightenment and its "impious optimism". Mr. Sampson regrets this sniping: we can no longer accept, say, Turgot's theory of progress, but the application of intelligence to social affairs remains possible and profitable, and even progress is not beyond our reach. With all our skepticism of ultimate values and of rationality, we can still construct a rational ethics. "It is not unreasonable to affirm", Mr. Sampson concludes, "that historical justification is not altogether lacking for adhering to the belief that human beings are oftentimes capable both of mastering their fears and their avidity for power by their intelligence, and of adjusting their behaviour to changing and more exacting conditions" (p. 252).

Mr. Sampson is surely right, both in his confidence and in his caution, as well as in his conviction that before we can be certain what to accept and what to reject of our eighteenth-century heritage, we must know what it is. For that knowledge, books like his own and Mr. Wilson's are most useful.

PETER GAY

COLUMBIA UNIVERSITY

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The Holstein Papers. Vol. II: *Diaries.* Edited by NORMAN RICH and M. H. FISHER. New York, Cambridge University Press, 1957.—xix, 404 pp. $8.50.

In the nineteenth century it was not considered proper for a diplomat to keep a diary, and, during his apprenticeship, Friedrich von Holstein observed the rules of his chosen profession. But as the years passed he became less discreet, although the position he came to occupy—that of Senior Counsellor in the Political Division of the Foreign Ministry—might seem to call for more, rather than less, reticence. In 1881 he began jotting down stories about Bismarck, and it wasn't long before he was keeping a record of day-to-day events and sending it, for safekeeping, to his cousin, Ida von Stülpnagel. This record, covering the years 1881-1883 lightly but the years 1884-1888 in great detail, has now been published as the second volume of Holstein's papers.

The contents of this volume are at once more interesting and more valuable for the historian than those of the preceding one, which included Holstein's memoirs. The principal reason for this is that Holstein never intended the diaries for publication and, consequently, never revised or cut them. As the editors point out in their preface, the diaries stand as they were when they were delivered to Frau von Stülpnagel and "represent . . . [Holstein's] contemporary appraisal of daily events without the glosses of hindsight."

This assurance that the diaries were not doctored after Bismarck's dismissal invests Holstein's opinions of the Chancellor's policy in the 1880's with especial interest. For the striking thing about the judgments recorded in these pages is the early date at which they begin to reflect doubts of Bismarck's capacities. In August 1884, Holstein is already writing: "I should place a blind faith in the Chancellor's decisions if he were ten years younger, but his former vigour is gone." Two months later, he finds Bismarck's "genius . . . diminishing and his vanity . . . on the increase." From this point on, the diarist's apprehensions increase and his complaints multiply. Germany's setback in the Carolines in 1885 appears to him to be an encouragement to the Powers to disregard German interests and a proof that "there is no longer any coherence between Prince Bismarck's various orders. And his nerve is completely gone." As the Bulgarian affair takes the center of the stage, Holstein's gloom deepens. By October 1886, Bismarck seems to him to be "an unperceptive, unfeeling, timid old man, without memory, easily swayed; all he has left is a considerable dialectical skill in putting forward his often wrong-headed, constantly shifting views."

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It will be recalled that the years in which these despairing notes were penned have been described by some historians as the ones in which Bismarck's diplomatic achievement reached its zenith. How, then, is one to account for Holstein's inability to recognize what the historians have seen and his tendency to see only weakness and folly?

From the diaries one gathers that this can be attributed partly to personal rancor. Throughout the 1880's Holstein became steadily more resentful of those who stood closer to Bismarck than he, and increasingly suspicious of their influence. By the end of the decade he had actually reached the point of believing that Herbert von Bismarck was making his father a tool of the Russians. But this is not the whole story. More important perhaps were Holstein's growing distrust of Bismarck's diplomatic method of playing the Powers off against each other and his dislike of what he called the Chancellor's "positive mania for secret treaties". In contrast to Bismarck's emphasis on looseness and flexibility in diplomatic arrangements, one detects in Holstein a growing rigidity and a desire for clear-cut definition. This cleavage, of course, indicates that he never fully understood Bismarck's policy. As the editors rightly point out, Holstein "lacked the feeling for the *imponderabilia* of international politics."

These observations give a very inadequate picture of the richness of the diaries. They range over a multitude of subjects, from the "unexampled rudeness" of American diplomacy to Bleichröder's attempt to get financial control of the Turkish railway and from the technical deficiencies of the German foreign service to the idiosyncrasies of ambassadors like Schweinitz, Münster and Holstein's friend Hatzfeldt. There are some remarkable sidelights here on the Battenberg marriage affair and the Bulgarian crisis, including a memorandum about Alexander of Battenberg written for William I by Bismarck. This document, hitherto unpublished in English, shows how completely unscrupulous Bismarck could be when he set about destroying a political opponent.

In general, the glimpses of Bismarck's private life given here reveal him as a most unattractive person. As for Holstein himself, one need only read his comments about the Crown Prince and the Crown Princess to see that in meanness of mind he was worse than his master.

In preparing these diaries for publication, the editors have lived up to the high standards that they set in their first volume.

GORDON A. CRAIG

PRINCETON UNIVERSITY

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The Coming Caesars. By AMAURY DE RIENCOURT. New York, Coward-McCann, Inc., 1957.—384 pp. $6.00.

It is hard to take this much-acclaimed book seriously; for it is a work that is depressing, infuriating, and not a little pathetic. The author, a Frenchman who has spent some years in the United States, is a product of what he calls "Culture". Scholarly, urbane, all-knowing, he writes condescendingly of Civilization. He, a European, is of the New Greece; we Americans are the New Rome. "Culture is a pulsating organism. . . . Civilization is a rigid crystallization." "Culture lays the emphasis on the original and unique. . . . Civilization on the common and the general." "Culture emphasizes that which differentiates men. . . . Civilization that which unites men." And so it goes. We are treated to all the old saws. "Americans hardly ever make basic discoveries but can endlessly adapt, improve, and mass produce European discoveries." We have heard all this before. M. de Riencourt, further, wears his classical learning on his sleeve. He compares endlessly: Augustus and Douglas MacArthur, Juvenal and H. L. Mencken, Titus Quinctius Flaminimus and Woodrow Wilson.

Greece and Rome, Europe and America. The analogy, if not new, is always intriguing. But what is the point? Will, for example, America experience a Romanesque decline? No, M. de Riencourt is not a Spengler at heart. He is just another latter-day Burke: he frets about Culture. The sort of society he prefers is one where those who appreciate Culture are allowed to pursue their wont. It would be so nice if somehow or other the insensitive other-directed masses would once again know their humble station, if once again they would automatically defer to the Cultured. But how are the unappreciative to be kept down? Burke said to drug them: religion, superstition and prejudice would keep their minds off matters which are not their business. But M. de Riencourt does not even suggest this. No Spenglerian cycles, no Burkean *Realpolitik*.

Those unhappy few who follow Russell Kirk and Peter Viereck will clasp M. de Riencourt to their bosoms. But most of us are prepared to grant that we have bought our American democracy at a price. The cost may well have been M. de Riencourt's Culture. But look what we have got in return. All God's children may enter the middle class, all may participate in politics, all may secure material comforts and leisure time. And, most important, none need yank a forelock as the duke rides by. We may have racial injustice. But our operative ideal is a population, all of whom are on an equal footing in the eyes of all

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others. In brief, we do not sell 90 per cent of the community short in order that 10 per cent may live a privileged and irresponsible existence. In the face of this, M. de Riencourt still exhorts his American readers to "find ways and means of reviving our moribund Culture." But how are the Cultured few to rise from the ashes? What prevents their ascent today is the power, and the cheerful arrogance, of the common man—and this includes the other-directed, organization man in the well-kept suburb. Are we to seek ways of depriving our neighbors of a life which they have come to find satisfying? If M. de Riencourt wants to make them revert to a life of subservience and deference, then he will have to speak of his means; for, on his own terms, elevating these people is out of the question.

It ought to be clear that this is a book which is long on nostalgia, short on politics. The political question is a real one: are the "Coming Caesars" coming? "Americans", he says, "will accept immense, almost autocratic power over them so long as they do not have to see in it a transcendental authority." Our Caesars must be both constitutional and legitimate. Furthermore, the American genius for geniality will allow us to joke publicly over the fact that Big Brother likes catsup on his eggs. "Democratic equality", "conformism", "psychological socialism"—all these will ease the rise of Caesarism. M. de Riencourt knows a lot about the historic Caesar. But what are to be the politics of American Caesarism? What forms of control are to be employed? What is to be the rôle of the military, the industrial managers, the politicians? What is to be the lot of the man in the street? There is enough substance in M. de Riencourt's vague prediction to make us want to read on. But there is nothing more to read. Classical analogies do not seem to be able to grapple with the Hidden Persuaders and the Power Elite.

ANDREW HACKER

CORNELL UNIVERSITY

American Nationalism: An Interpretative Essay. By HANS KOHN. New York, The Macmillan Company, 1957.—x, 272 pp. $5.00.

Professor Hans Kohn, author of a substantial library on European national movements, promises in this lively volume "only an essay, and a first essay, to discuss some of the chief problems inherent in the very complex phenomenon of American nationalism" (p. ix). He submits the present essay in the hope that more intensive and systematic studies of the subject may follow.

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Nationalism has come to mean many things, from the great defining traits of national character and tradition to special doctrines that make the nation the center of loyalty and power. In the large definition, American nationalism would become not a particular element of American history but the essence of the whole. Professor Kohn's dominant interest seems to point in this direction.

The regular business of his book, however, is a discussion of more or less explicit notions of Americans about their nation, especially in its relations to internal parts and external counterparts. The essay is organized around five major topics, representing in rough historical sequence the characteristic problems of (or for) American nationalism: origins, Anglo-American relations, federal relations, ethnic relations, and international relations. Under each of these topics Professor Kohn briefly characterizes the historical situation and gathers opinions of political and cultural spokesmen.

Most important to the argument of *American Nationalism* is the opening chapter, for there Professor Kohn discovers not only the "roots and origins of the republic" but its basic character in "an idea which singled out the new nation among the nations of the earth" (p. 8). English liberalism, broadened and heightened by French rationalism, gave the American people their *raison d'être,* their ruling principle, and their enduring moral bond with England and the North Atlantic community. Other influences of course are considered by Professor Kohn, but they provide mainly variations on or distractions from the central theme.

The often troubled relations between England and America, mother and daughter, occupy an important place in the essay. Professor Kohn finds nothing in the revolutionary break or in the later quarrels to cast doubt upon the close kinship between the two nations. Anglo-American conflicts of the nineteenth century, political and cultural, are taken principally as signs of the growing pains of a new nation anxious to confirm its own unique identity, a phenomenon for which Professor Kohn finds several European parallels. By the end of the century, America had come of age and could both acknowledge the English inheritance and quietly affirm its distinctive contribution to the common culture.

Professor Kohn has drawn broadly on the professional literature and frequently refers to original writings. In one unfortunate instance John Adams is quoted as affirming that "our pure, virtuous, public spirited, federative republic will last for-

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ever, govern the globe and introduce the perfection of man" (p. 13). The whole of the letter to Jefferson (commonly dated November 15, 1813), as well as the closing clause of the sentence quoted, shows Adams' satirical intent.

American Nationalism is brought forward as an opening discussion of a difficult subject; it is a welcome contribution. Although much of the information and argument can be found elsewhere, Professor Kohn presents the material in a form which should be useful to future students and adds his own liberal reflections on the American historical experience.

MARVIN MEYERS

THE COLLEGE, UNIVERSITY OF CHICAGO

The American Conscience. By ROGER BURLINGAME. New York, Alfred A. Knopf, Inc., 1957.—x, 420, xv pp. $6.75.

This book rests upon the assumption that there is something—an historical reality—that is to be called an "American conscience". This American conscience the author defines as "the body of opinion that judges moral behavior in a community" (p. 401).

But the "American conscience" was not born full grown. On the contrary, it evolved "through the many diverse and dangerous phases of our growth." The first phase was the provincial phase, in which moral controls "were usually deeply involved with religion" (Parts I and II); the second was a phase in which "practical faiths" united the American people during the Revolutionary era in the name of liberty (Part III); the third major phase was one "dominated by regional consciences", northern, southern, and western, divided over the question of the moral character of slavery and over the nature of national union (Parts IV and V); the fourth phase (Part VI) was marked by the appearance of the truly national conscience in the period between the Civil War and the First World War, an American "body of moral standards" (p. 402) that had its basis in the genuine national unity brought into being by the Civil War and the industrial and social unification that followed it.

The author is not concerned with the social conscience that governs the behavior of individuals so much as with the group, sectional, or national conscience that bears upon the behavior of society as a whole, the state, or the nation as symbolized in its federal government. There have been moments when the social conscience was eclipsed by the drives of self-interest; there have been others, as during the Grant and Harding administrations,

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when the moral indifference or complacency of the people permitted, or even encouraged, gross immorality in high places; there have been others, as during the Puritan régime in New England, or during the Wilson régime, when the social conscience was, as it were, "hitting on all four".

This moral interpretation of American history has a very plausible ring. The only difficulty with it is that it, like most unilinear "interpretations", is not really supported by the documentary evidence. There does seem to be some historical evidence to show that individuals sometimes suffer remorse for actions they consider immoral and attempt to make some sort of requital; cases of analogous movements of conscience in societies or states, while they apparently have occurred, are exceedingly rare in history. But to suggest that there is a single continuing, historically identifiable psychological phenomenon called "conscience" that characterizes a whole people—the American or any other—is to strain historical credulity—and the historical evidence—much too far. It does seem wiser, and historically more in accord with the evidence, to say that in America, as in any people, there are, and always have been, many consciences. One individual conscience, or moral consensus of a small group, may exert a powerful, even decisive influence on public affairs at any given moment. But every individual conscience is different, in one way or another, from every other individual conscience—if it actually exists—in the world; and the individual conscience of the present always differs from every individual conscience in the past. Historically, the American people have taken great satisfaction in the fact that this is so, and that every individual conscience has the right to be heard. It would be extremely difficult within the canons of a rigorous historical criticism to show that an identifiable "American conscience", within the terms of the author's definition, is or ever has been historical reality.

The author announces that the book "is not written for scholars" (p. 8). This is correct: it is not. He also says that it "is written for the 'lay reader'" (*ibid.*). This also appears to be correct. As such, this survey of the "moral" history of the American people, with its thesis that the "American conscience" has been a constant and evolving force in that history, appears to belong in that vast corpus of popular religious and moral literature that characterizes the religious revival of the mid-twentieth century.

MAX SAVELLE

UNIVERSITY OF WASHINGTON

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Albert Gallatin: Jeffersonian Financier and Diplomat. By RAYMOND WALTERS, JR. New York, The Macmillan Co., 1957. —ix, 461 pp. $7.00.

This is the second full-length biography of Albert Gallatin, the Jeffersonian financier and diplomat. The first was Henry Adams' *Life of Albert Gallatin,* published in 1879. The *Life* was a pioneering work which, considering the relatively meager amount of information then available, and in spite of an occasional chilliness and pedantry, still strikes one as being a most valuable book.

Dr. Walters says in his Preface that Adams' concern was "almost entirely with Gallatin's public life." The question is—did he ever have any other, so far as the biographer and the historian are concerned? That is to say, did he leave any *personal* impression on the history of his times as, for example, Jefferson conspicuously did and Madison conspicuously did not. Walters himself, oddly enough, provides the answer when he writes that he undertook this biography because it could portray "a man unique and invaluable in any age or land, a superbly able and almost completely selfless public servant" (p. vii).

In other words Walters, like Henry Adams, had no choice but to concern himself almost entirely with Gallatin's public life: for Gallatin was so prudent, so upright, so reticent, so unrevealing in his letters and writings that—in spite of a career which exposed him to savage political attacks in his lifetime and to the possibilities of severe controversy after his death—no legends or scandals have attached themselves to his name.

What Walters has done, therefore, is to enlarge the scope of Gallatin's public life, not only with a fresh reading of the Gallatin Papers themselves, but also from the vast mass of primary and secondary material not available to Adams in the 1870's. Here his style—meticulous, lucid, astringent—is exactly suited to his theme. Another writer might perhaps have attempted to make a romance out of Gallatin's early life: how he fled from Geneva, a young aristocrat in search of the ideals of Rousseau; his curious experiences as a land speculator along the borders of Virginia; the death of his first wife in the Pennsylvania wilderness. But Gallatin resists this kind of treatment, and Walters, happily, is the last man to think of applying it. What interests him is what passionately interested Gallatin—the politics of the frontier and the public finances of the state of Pennsylvania. His account of this phase of Gallatin's career is succinct and successful, a luminous prelude to Gallatin's feats as a Representative in the Fourth, Fifth and Sixth Congresses, and to his great

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achievements as Secretary of the Treasury under Jefferson and Madison.

The hero of a political biography can be portrayed as defeated or defamed or misunderstood or mistaken; but never as playing second fiddle. Walters is at his best when he is dealing with Gallatin as a financier; for here his hero's preëminence in Jeffersonian history is quite beyond dispute. On other matters, he has a tendency to place Gallatin a little too much in the center of events. It is, for example, at least questionable that "by bold and statesmanlike action he took the leadership of the Democrat-Republican forces from James Madison" in the Fourth Congress (p. 101).

This tendency is even more marked when Walters deals with Gallatin's diplomatic career, which began with the negotiations at Ghent and which (except for a somewhat otiose tour of duty as minister to France) was entirely concerned with America's efforts to move away from the shadow of the Second British Empire. Here, in order to emphasize the importance of his own man, Walters is inclined to underestimate or ignore the quality of the opposition. You would never guess from this book that Huskisson was an important innovator or Canning something more than an opportunist.

But these are defects of emphasis, almost inseparable from the biographical approach to history, which experienced readers will have discounted in advance, and which are never more than incidental defects. Gallatin, after all, *was* a great public servant and this book proves it. Taken as a whole, it is a very fine piece of research and exposition—one which, I venture to suggest, has brought to a most happy conclusion the work begun by Henry Adams some eighty years ago.

GEORGE DANGERFIELD

NEW YORK, N. Y.

The Communist Party vs. the C.I.O.: A Study in Power Politics. By MAX M. KAMPELMAN. New York, Frederick A. Praeger, 1957.—xviii, 299 pp. $6.00.

The recent spotlighting of labor racketeering has left in the shadows backstage an issue which for a long time occupied a center-stage position—the rôle of Communists in the labor movement. Dr. Kampelman has made a valuable contribution by focusing new light on this problem in one of the most thorough studies made to date.

His thesis is that the Communists penetrated American unions primarily for political motives. "The effort was to control the

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unions in their *political* expression, not as instruments of collective bargaining" (p. x). To substantiate this point, he traces the Communist conspiracy through its various tortuous activities as it infiltrated into positions of power within the C.I.O. After four brief introductory chapters in which the background of earlier attempts at Communist penetration of unions is reviewed and the basis for the Communists' greater success in infiltrating the C.I.O. is examined, the stage is set for the post-war struggle for power within the C.I.O. and the subsequent uncovering of the tactics of the Communists.

Kampelman documents this conflict at two levels—the national level where Philip Murray tried desperately to avoid a split in the C.I.O.'s ranks and within the individual national unions such as the United Automobile Workers, the Farm Equipment Workers, the National Maritime Union and the United Electrical Workers. Further documentation of Communist strategy is provided as Kampelman reviews the expulsion charges made by the C.I.O. against the United Office and Professional Workers, the United Public Workers, the Food, Tobacco, Agricultural and Allied Workers, the International Mine, Mill and Smelter Workers, the American Communication Association, the International Longshoremen's and Warehousemen's Union, and the International Fur and Leather Workers.

In doing this, Kampelman cites innumerable instances where Communist leaders took advantage of their positions of power to parrot the party line while speaking in the name of their entire union organization. Quoting liberally from the Communist-dominated union journals and from the public statements of the Red leaders, he demonstrates the ability of the Communist leaders to reverse their own and their unions' position overnight to adjust to revisions in the party line.

The two remaining chapters were of particular interest to this reviewer. In one Kampelman relates the C.I.O.'s experience with the World Federation of Trade Unions and its eventual withdrawal to join the International Confederation of Free Trade Unions. His concluding chapter contains insights which should have received more attention in the main body of the book—the strategies and means by which the Communists acquired and maintained their control. Many of his preceding chapters contain passing reference to this, but for a book written by a political scientist there is a surprisingly small amount of such analysis. Nor, despite the great amount of Communist propaganda quoted, does Kampelman reach, except by implication, any substantial conclusions as to the effectiveness of these propaganda efforts. Rather he contents himself with long ex-

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cerpts from House hearings designed to demonstrate that certain designated leaders really were Communists.

Two other dissents seem in order. Kampelman argues that Communist domination had little impact upon collective bargaining. Aggregate comparisons of contracts of Communist and non-Communist unions would undoubtedly substantiate this point, but it is also likely that a study of individual cases would reveal wide differences in the manner in which the two types of leadership would handle a given situation and uncover the strategies whereby individual Communist leaders maintained power.

Kampelman is careful to avoid giving too much credit to the Taft-Hartley Act's anti-Communist oath as an effective weapon, but one gains the impression that he regards it as a decided benefit. No recognition is given by him to the grave problems created by such legislation. If the unswerving rigidity of Communist doctrine made it inevitable that Communist leadership was incompatible with American trade unionism (p. 257), was it necessary that "The solution of Communist trade unionism . . . be a joint one between voluntary self-regulation and government action" (p. 268)?

HOWARD D. MARSHALL

VASSAR COLLEGE

American Immigration Policy, 1924-1952. By ROBERT A. DIVINE. New Haven, Yale University Press, London, Oxford University Press, 1957.—viii, 220 pp. $4.00.

From colonial times to World War I, Americans, as a whole, extended a generous welcome to immigrants. Proud of a great tradition which made the United States a haven of refuge for men who sought freedom and opportunity, they were confident that the Republic could achieve a political unity built upon cultural diversity. With the closing of the "open door" in the 1920's, an epoch in American history came to an end.

In this significant study of the development of a restrictive immigration policy, the author, with the calm detachment which befits the scholar, has followed the "battle of the Nordics" from 1924 to the McCarran-Walter Act of 1952. Restriction really began with the literacy test in 1917, but it was not until after two World Wars that the debate between the champions of the older melting-pot theories really clashed with restrictionists and racists who were convinced that the country was suffering from "alien indigestion" and stood in need of an entirely new policy. The adoption of the quota system implied that certain group criteria based on national and racial origins, rather than individual desirability, should be used in the selection of prospective immigrants.

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The author believes that the decision of Congress to retain the national-origins quota system, despite the difficulty of making accurate deductions from surnames in the census of 1790, was the best that could be made under the circumstances and seems here to stay. He reviews the political pressures by patriotic societies and labor groups, on the one hand, and by Irish, German and Scandinavian organizations, on the other, which were used to affect the decision, and makes it clear that the opposition of the latter groups was not based on sympathy for the South European but on the special preference given to Britishers.

There are chapters on the effects of the great depression, on the special problems of refugees and displaced persons who were the victims of communism, fascism and war, and who, many feared, might turn out to be fifth-column carriers of ideological germs. Both Roosevelt and Truman reacted more generously than Congress to this international crisis, and greatly extended the influence of the executive over immigration in these years. As the United States became more involved in world problems, foreign policy had its effect upon immigration policy, especially in the case of China, the Philippines, India and Mexico.

The Internal Security Act of 1950 emphasized the shift from racial and cultural arguments to the need of giving primary attention to protecting the country against Communist infiltration, and forecast the McCarran Act which marked the complete triumph of the restrictionists.

This highly controversial omnibus bill was passed after two years of debate, and by a voice vote in the Senate when only a dozen senators were present. Congress easily overrode a Truman veto which McCarran described as "un-American" and following the Communist line. As on earlier occasions, the vote showed a sectional rather than a party alignment, and revealed the old alliance between Southern and Western restrictionists. The act itself retained the national-origins quota system, with economic selections within quotas; codified existing immigration laws and regulations; and made a number of changes, including the grant of almost unlimited power to American consuls to stop the entry of nominal and past members of subversive parties.

So brief a review cannot do justice to so good a book, in which the author has unraveled the controversies of nearly thirty years with such skill and clarity. Neither restrictionists nor anti-restrictionists can quarrel with his findings, for the account is singularly calm and objective, and presents both sides in a controversy which will undoubtedly continue for some years.

CARL WITTKE

WESTERN RESERVE UNIVERSITY

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BOOK NOTES

The Breakdown of Nations (New York, Rinehart & Company, Inc., 1957; xii, 244 pp. $4.00), by Leopold Kohr, is an exceedingly thought-provoking book. Unfortunately, it will probably not be taken as seriously as it should be, and certainly because of its small printing it will not get the distribution which it deserves. It presents a new idea in a rather extreme form, and one might almost suspect that the author wrote some parts with his tongue in his cheek. The fundamental thesis of the book is that most of the world's social evils and problems are a function of size. The author does not maintain that crime and other social problems do not arise in small states, but that they do not become so serious that they cannot be handled except in large political conglomerations. Nor does Dr. Kohr claim that wars and aggression do not occur among small nations, but that they are not of a catastrophic nature except among large states. There is one part of Dr. Kohr's discussion which is particularly appropriate at the present time and upon which he lays constant emphasis. This is the argument that the unification of Western Europe cannot be successful on the present basis of several large states plus a number of small ones. It can succeed only when none of its component parts is large enough to challenge the power of the union. This, he says, is the secret of the long lives of the United States and Swiss federations. Dr. Kohr, therefore, suggests that the large states of Europe be divided into their original parts. France would thus give way to Normandy, Brittany, Burgundy, etc.; Germany to Bavaria, Baden, Rhineland, Saxony, etc.; and so on with the other major Powers. The author insists that these are the "natural" divisions of Western Europe in any case, and that the great states, which were built up by conquest, are basically "artificial". On a broader scale, the author advocates this kind of breakdown of all of the major Powers, as the only possible basis for a real United Nations organization. He argues with convincing logic that the United Nations is sooner or later likely to follow the path of its predecessor, the League of Nations, so long as its constituent parts are stronger than the Center. Such organizations in the past, he points out, have either split up, or have become the tools of their most powerful member. There are many parts of this provoking and

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provocative book with which the reader is likely to disagree. Dr. Kohr carries his argument for small political units through virtually all fields of human endeavor, drawing analogies from the physical sciences, applying the thesis to economic phenomena, and seeing it as the only way of keeping slums, crime and traffic congestion from reaching unmanageable proportions. A reader is likely to find himself arguing with the author at many points, but he will never find himself being put to sleep.—ROBERT J. ALEXANDER, Rutgers University.

Leon A. Dale, in his study of *Marxism and French Labor* (New York, Vantage Press, 1957; 273 pp. $4.50), ought to have something significant to say about an important subject, for he is a trained economist who spent three years as assistant to Irving Brown, the A.F. of L.'s energetic "ambassador" in Paris. Unfortunately, the book in no way lives up to its promise. Although the apparatus of scholarship is all there (including a fifty-page bibliography), almost every real essential of scholarship is ignored. The book is a violent tract rather than a careful analysis of the chosen topic. It is poorly organized, awkwardly written, filled with clichés and mixed metaphors of the most uninhibited sort; terms are used loosely and ambiguously, ancient myths are perpetuated without question, and the facts themselves are handled with startling neglect. The first half of the book is a summary of the history of organized labor and socialism in France, borrowed rather indiscriminately from a handful of French secondary works. The second half examines the record of the past decade, but fails to demonstrate very much except that the aims and methods of the Communists are deplorable. There are some incredible misinterpretations and sheer misstatements of fact, ranging from a caricatured version of the post-liberation purge to an assertion that the MRP was "a Catholic political party headed by Charles de Gaulle", and a reference to "the Russian October Revolution of 1917 which led to the overthrow of czarism." Mr. Dale concludes with a barrage of rhetorical questions about the fate of France, of organized labor, and of Western democracy, and properly stresses the importance of free labor movements everywhere. But when one seeks the reasons for the failure of Frenchmen to form such a free labor movement, he gets no perceptive insights from Mr. Dale. Fortunately, Val Lorwin's recent study entitled *The French Labor Movement* covers most of the same ground in masterly fashion.—GORDON WRIGHT, Stanford University.

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The little volume, *South Africa: Economic and Political Aspects* (Durham, Duke University Press, London, Cambridge University Press, 1957; xi, 192 pp. $3.50), consists of three lectures given by Hector Menteith Robertson, Jagger Professor of Economics of the University of Capetown at the Commonwealth Studies Center of Duke University. The first sketches the historical development of Black and White in the South African economy. The second examines that economy in the light of the *apartheid* policy of the present government. The final lecture sketches in some detail the recent constitutional struggles and their background. The presentation is studiously objective. At only a few points does the author hint at judgments. It lacks the verve of D. C. de Kiewiet's *The Anatomy of South Africa's Misery*, three lectures given about the same time in Canada by the President of the University of Rochester. The first and third of Professor Robertson's lectures present many aspects of the situation little known to the average American, particularly with reference to the tortuous steps by which the present government removed the Cape Colored from the general voters roll. Through gerrymandering and changing the composition of the high courts and the Senate by legislative action, this was finally accomplished after a five-year struggle that many believe destroyed in spirit if not in fact the basic constitutional South Africa Act which established the Union in its present form. The second lecture reviews the reports of several government commissions from the Holloway Native Economic Commission of 1930-32 to the recent Commission on the Socio-Economic Development of the Bantu Areas, better known as the Tomlinson Commission, which later accepted *apartheid*. Professor Robertson indicates something of the cost and capital investment that implementing the proposals of this body would involve. Since this report was submitted to the government in 1954, not published even in summary form until two years later and in effect repudiated by the government on publication, the discussion seems to this reviewer to be rather detailed. The growing capital stringency in the Union, especially since the fall of 1956, is not touched on. Data on the labor force drawn from monthly government reports which raise to this reviewer very serious questions with respect to the social and economic harm which current policies are inflicting on the Union are not utilized. The implications of the economic struggle between English and Afrikaner interests are omitted. Twenty-seven pages are given to a most useful glossary of names and terms and about as many to an excellent bibliography.—EDMUND DES. BRUNNER, Columbia University.

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Benedetto Croce's dictum that "even a bibliography, a collection of documents, or a chronology requires a true love of the subject to which it is devoted" is aptly used to introduce the two-volume work *Bibliografia del Socialismo e del Movimento Operaio Italiano* (Rome, Ente per la Storia del Socialismo e del Movimento Operaio Italiano, 1956; 2 vols., 1427 pp. L12,000; distributed by Leo S. Olschki, Florence, Italy). Here is a veritable labor of love, executed with competence, with thoroughness, and, because of the real beauty of the books, one might add, with good taste. It emanates from the Organization for the History of Italian Socialism and the Labor Movement (Opera G. E. Modigliani), which has on its directional committee such illustrious scholars as Gino Luzzatto, Domenico De Marco and Giacomo Perticone. Their names guarantee excellence. This group of scholars has planned an extraordinarily extensive bibliography of Italian labor and socialism—movements which are defined so loosely here as to permit the inclusion of radical and democratic groups of the Risorgimento along with Catholic socialists and Left-wing syndicalists of today. The finished work will list all pertinent periodicals, published works, and parliamentary speeches and reports. In the present volumes we have only periodicals, but they include 3,866 entries! They were selected from the collection of the Biblioteca Nazionale at Florence on the ground that this is the richest source in the world, and hence do not comprise known periodicals not found at the City of Flowers. This bibliography contains not only the usual information about each entry but also cross-reference indexes to political movements, to coöperative, mutual-aid, and trade-union societies, to publishers and places of publication, to supplements and single issues, to persons cited, and to dates of publication. No effort seems to have been spared to make this a useful and usable book. My students and I have found it to be excellent for what it attempts to do. We regret the decision to limit the listings to what is found in the Nazionale at Florence, for this eliminates, for example, some of the Mazzini material and a considerable amount of the anti-Fascist.—SHEPARD B. CLOUGH, Columbia University.

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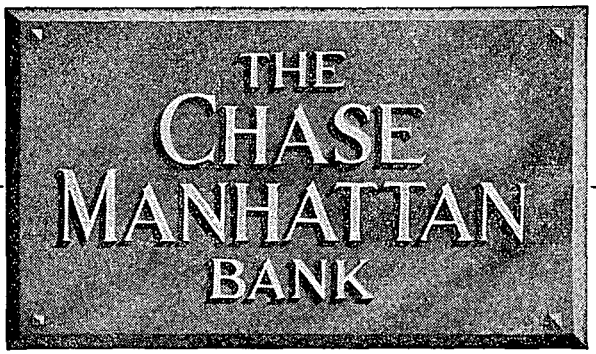

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